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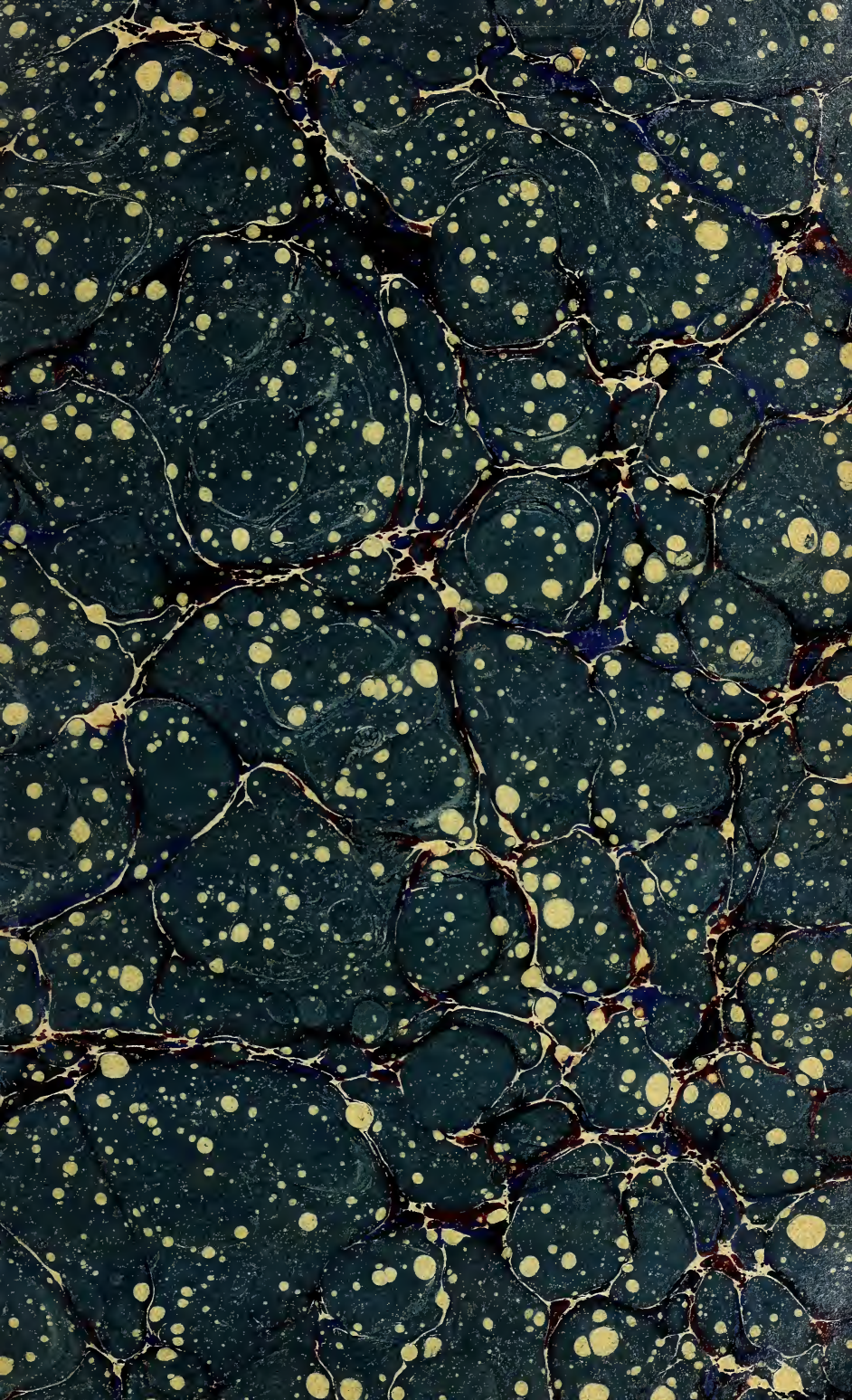
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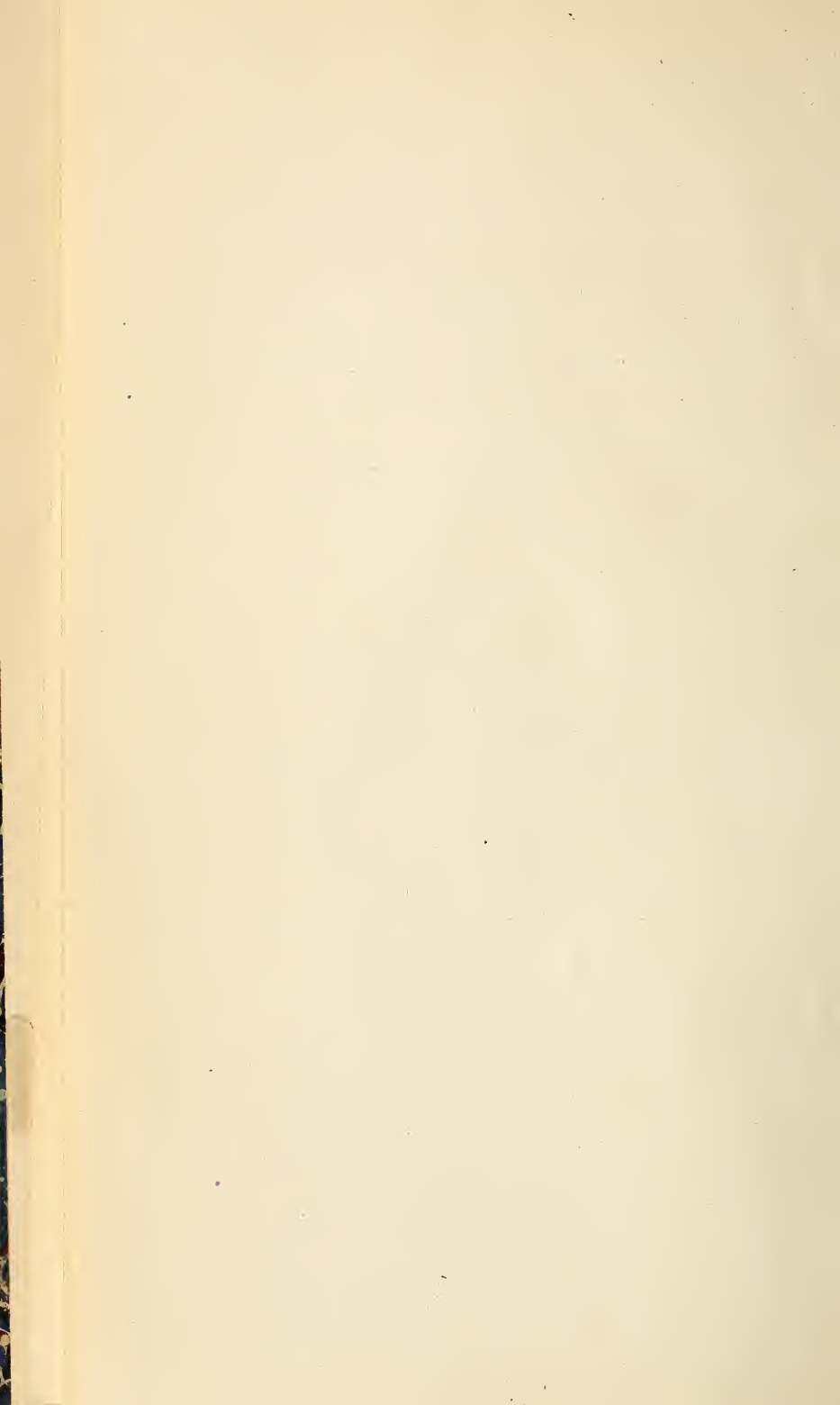
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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 201, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"MAKE-MAN TABLETS."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of August, 1909, in the Supreme Court of the District of Columbia, holding a District Court of the United States for said District, judgment was entered in the case of the United States against 2½ gross packages of Make-Man Tablets pursuant to a libel filed under section 10 of the aforesaid act and proceedings had thereon, which libel in substance alleged:

That 2½ gross packages of a drug labeled and branded "Make-Man Tablets" held and offered for sale in the District of Columbia were misbranded in that the label on each of said packages bore the following statements regarding the ingredients therein contained: "A brain, blood and nerve food; especially prepared for the treatment of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor ataxia, wasting diseases, nervous debility, female disorders and all kindred diseases resulting from worn out nervous system," which statements were exaggerated, false, and misleading in this, that the said drug is not a brain, blood, or nerve food, and is not adapted or suitable for the treatment of the several diseases or disorders therein mentioned; and which was further misbranded in that said label bore the following statement: "Distinctly a tonic to build up the system and contains no poison," which statement was false, exaggerated, and misleading in this, that said drug is not a tonic for the human system and contained certain poisons, to wit, arsenic and strychnine; and which was further misbranded in that the label on each of said packages bore the following statement regarding

the ingredients therein contained, to wit: "Make-Man Tablets make blood * * * therefore any man that finds his health impaired, his vital force lacking as a result of overdoing, can replenish this lost power by the timely use of Make-Man Tablets * * * sold under an absolute guaranty to restore lost vitality. A valuable discovery and a favorite prescription of a recognized practitioner. Makes the nerve cells strong because of supplying them with the right food * * * a healthy natural food for the nerves rather than a temporary stimulant like most advertised so-called aphrodisiacs," which statements were exaggerated, false, and misleading in this, that said drug was not adapted to or suitable for the purpose of making blood or for the purpose of replenishing lost power in man, or for the purpose of restoring lost vitality, and further was not adapted to or suitable for stimulating the system in the manner accomplished by so-called aphrodisiacs; and which was further misbranded in that said labels bore the following statements: "A brain, blood and nerve food especially prepared for the treatment and cure of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor ataxia, wasting diseases, nervous debility, female disorders and all kindred diseases resulting from worn out nervous system," which statements were exaggerated, false, and misleading in this, that said drug was not a brain, blood, or nerve food, and was not especially adapted to or suitable for the treatment or cure of the diseases therein set forth.

The libel prayed process against all claimants to the said 2½ gross packages of Make-Man Tablets and seizure and condemnation of the same. Phillip G. Affleck appeared as claimant and filed a plea of *nolo contendere* to the allegations of the libel, whereupon the court rendered the following decree:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA,	} District No. 831.
vs.	
TWO AND ONE-HALF GROSS PACK- ages of "Make-Man Tablets."	

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on June 10th, 1909, the Marshal of the United States for the District of Columbia seized forty-one dozen packages, more or less, of "Make-Man Tablets," valued at about four dollars for each dozen packages; and it further appearing to the Court that the claimant of the said forty-one dozen packages, more or less, so seized as aforesaid, Phillip G. Affleck, has entered his appearance and filed herein his plea of *nolo contendere*, that he will not contend with the United States in this cause, and no objection being signified to the Court; and it appearing further that the packages and labels state that the contents are a brain, blood and nerve food, especially prepared and adapted to and suitable for

the treatment of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor ataxia, wasting diseases, nervous debility, female disorders, and all kindred diseases resulting from worn out nervous system; and further, that the contents of the packages are distinctively a tonic for the human system and contain no poison; and further, that the said contents of the packages are suitable for the purpose of replenishing "lost power" in man, and for the purpose of restoring lost vitality, and is adapted to and suitable for stimulating the human system like an aphrodisiac; and further, upon certain of the bundles in which said packages are wrapped, that the contents of the packages are a brain, blood and nerve food; and it further appearing that the said labels and packages bear certain statements regarding the ingredients and substances contained in said food or drug; which are false and misleading and such as deceive the purchaser and the public, in this, that the said food or drug is not a brain, blood or nerve food, and is not especially prepared or adapted to or suitable for the treatment of the several diseases hereinabove named; and further, that the said food or drug is not a tonic for the human system, and contains certain poisons, namely, arsenic and strychnine; and further, in that the said food or drug is not suitable for the purpose of replenishing "lost power" in man, nor for the purpose of restoring lost vitality, and is not adapted to or suitable for stimulating the human system like an aphrodisiac; and it further appearing that the said bundles and packages of the food or drug have been offered for sale in the District of Columbia, in manner and form as claimed in the said libel,

It is, this 11th day of August, A. D. 1909, adjudged, ordered and decreed: That the said forty-one dozen packages, more or less, of the food or drug in the custody of the Marshal are misbranded, within the meaning of the said Act approved June 30, 1906, and the statements regarding the ingredients and substances contained therein are false and misleading as herein recited; and

It is further ordered that the said forty-one dozen packages, more or less, be, and they are hereby condemned, and they shall be disposed of by sale by the said Marshal under such terms and conditions as will not violate the provisions of the said Act approved June 30, A. D. 1906.

It is further ordered that the respondent, Phillip G. Affleck, pay all the costs of these proceedings.

It is provided, however, that upon said respondent Phillip G. Affleck's or the "Make-Man Tablet Company," a corporation of Chicago, Illinois, paying all the costs of these proceedings, and executing and delivering to the said United States a good and sufficient bond, with surety, to be approved by the Court, in the penal sum of \$250, conditioned that the said forty-one dozen packages, more or less, of "Make-Man Tablets" shall not be sold or in any manner whatever disposed of contrary to the provisions of the said Act approved June 30, A. D. 1906, the said Marshal shall redeliver and surrender the said forty-one dozen packages, more or less, of "Make-Man Tablets" to the respondent, Phillip G. Affleck, or to the said "Make-Man Tablet Company," in lieu of the disposition by sale as aforesaid.

By the Court.

ASHLEY M. GOULD,
Justice.

The facts on which the allegations of the libel were based were as follows:

A specimen of the drug manufactured by the Make-Man Tablet Company, Chicago, Ill., labeled as above described, was obtained from the stock in possession of Phillip G. Affleck, 1429 Pennsylvania avenue, Washington, D. C., and analyzed in the Bureau of Chemistry of the United States Department of Agriculture, where it was found

to consist essentially of aloes, arsenic, strychnine, potassium sulphate, iron carbonate, iron oxid, and considerable inert silicious material.

It appearing that the drug was misbranded, the Secretary of Agriculture, on June 8, 1909, reported the facts to the United States Attorney for the District of Columbia, who filed the above libel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 15, 1910.*



I. S. Nos. 14638-a; 10396-a.
F. & D. Nos. 699; 638.

Issued March 16, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 204, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"LAMBERT'S WINE OF COCA."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 24th day of August, 1909, in the District Court of the United States for the Eastern District of Michigan, judgment was rendered in two cases of the United States against Benjamin L. Lambert, both prosecutions upon informations in substance charging said defendant with having shipped and delivered for shipment from Detroit, Mich., to Chicago, Ill., six packages of a drug labeled:

**"LAMBERT'S WINE OF COCA WITH PEPTONATE IRON
AND EXTRACT OF COD LIVER OIL.**

Contains 22% Alcohol. A refined preparation, acting as a pronounced tonic and general Nerve builder. The Cod Liver Oil in this preparation is represented by the extractive principles, containing as it does the Morrhaine, Butylamine, Iodine, Bromine and Phosphorus.

We fully warrant this product to be free from any opiate such as Morphine, Codeine or Opium.

Guaranteed under the Pure Food and Drugs Act of June 30th, 1906. Serial Number 1998.

LAMBERT PHARMACAL AND CHEMICAL CO.,
Detroit, Mich."

which was misbranded for the reasons that the package failed to bear a statement on the label of the quantity or proportion of cocaine contained therein and the label was false, misleading, and deceptive to purchasers in that iodine and bromine were represented as present therein, when in truth and in fact these ingredients were not present.

The defendant pleaded nolo contendere on the aforesaid date to this information and to a second information similar to the above, which charged said defendant with a shipment of the same product from Detroit, Mich., to Buffalo, N. Y. The court imposed upon him a fine of \$10 in each case.

The facts upon which the prosecutions were based were as follows:

An inspector of the United States Department of Agriculture obtained a sample from the consignment of the product shipped to Fuller & Fuller of Chicago, Ill. This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain no bromine or iodine. A like sample was obtained from the consignment shipped by said manufacturer to the Pharmacal Drug Company, of Buffalo, N. Y., which was analyzed with like results. The said Benjamin L. Lambert was afforded a hearing, provided for in section 4 of the act, with regard to the misbranding alleged, whereupon it appeared that the act had been violated, and the Secretary of Agriculture, on July 9 and August 6, 1909, reported the facts of the two offenses to the Attorney General. The cases were referred to the United States Attorney for the Eastern District of Michigan, who filed informations against the said Benjamin L. Lambert, with the result hereinbefore stated.

JAMES WILSON,

Secretary of Agriculture.

WASHINGTON, D. C., *February 18, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 202, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF A BEVERAGE, "KOCA NOLA."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 22d day of August, 1909, in the District Court of the United States for the Northern District of Georgia, judgment was rendered in two cases entitled *United States v. Koca Nola Company*, both criminal prosecutions by information which had been consolidated for trial.

The first information (No. 7594) contained two counts. The first count thereof charged said defendant with having shipped from Atlanta, Ga., to New Orleans, La., a certain article of food, to wit, 1 gallon of Koca Nola Syrup, labeled and branded: "High Grade Koca Nola Syrup, Soda Water Flavor Guaranteed under the Food and Drugs Act, June 30, 1906 Serial No. 1116 Koca Nola Co., Atlanta, Ga." which was misbranded in the following respects: Said syrup contained cocaine and cocaine was present therein, and the package containing said syrup did not bear a statement thereon of the quantity of cocaine contained therein, and did not bear a statement that any cocaine was present therein. And the second count thereof charged that the syrup labeled as above described, which had been shipped as aforesaid from Atlanta, Ga., to New Orleans, La., was adulterated in that said syrup contained an added deleterious ingredient, to wit, cocaine, which rendered said syrup injurious to health.

The second information (No. 7630), in the first count, in substance charged said defendant with having shipped from Atlanta, Ga., to Anacostia, in the District of Columbia, 1 gallon of Koca Nola Syrup, labeled: "Delicious Dopeless Koca Nola. The Great Tonic Drink." which said syrup was misbranded in the following respects: First, the said syrup contained cocaine and cocaine was present therein, and the package containing said syrup failed to bear a statement on the label thereof of the quantity or proportion of said cocaine con-

tained therein, and did not bear on the label thereof a statement of either the quantity or proportion of cocaine contained therein and failed to bear on said label a statement of any cocaine as being present therein. Second, the said syrup was not dopeless, as stated on the label, and said statement to that effect is false and misleading, because said syrup contained cocaine.

The second count of said information charged said defendant with having shipped from Atlanta, Ga., to Anacostia, in the District of Columbia, a certain drug, to wit, 1 gallon of Koca Nola Syrup, labeled as in the preceding count of this information, which syrup was misbranded in the following respects: First, that cocaine was present therein, and that the package failed to bear a statement of the quantity or proportion therein contained. Second, the said syrup was not dopeless, as stated on the label, and said statement to that effect was false and misleading, because said syrup contained cocaine.

The third count of said information further charged said defendant with having shipped from Atlanta, Ga., to Anacostia, in the District of Columbia, a certain article of food, to wit, 1 gallon of Koca Nola Syrup, labeled as described in the foregoing count, which was adulterated in that it contained an added deleterious ingredient, namely, cocaine, which rendered said Koca Nola Syrup injurious to health.

To the above informations and to each count thereof the defendant pleaded not guilty. The issues raised by said pleas were tried by a jury, which, after hearing testimony submitted, and the arguments of counsel, and being instructed by the court as follows:

Gentlemen of the Jury: The defendant, the Koca Nola Company, is charged in this information with the violation of what is known as "the food and drug Act of 1906." This Act provides first, so far as is material here, that "the introduction into any State or territory or the District of Columbia, from any other State or territory or the District of Columbia, or from any foreign country or shipment to any foreign country of any article of food or drink which is adulterated or misbranded under the meaning of this act, is hereby prohibited," and then that any person who shall violate this Act shall be guilty of a misdemeanor and shall be punished as provided in the Act.

You understand, of course, that this is a Federal Statute, and consequently deals only with things between states and between states and the District of Columbia, and between the United States and foreign powers. The United States have no jurisdiction whatever with reference to anything occurring within the states or within any territory. The states themselves have jurisdiction of such matters.

You are trying the defendant on two criminal informations which are consolidated for the purpose of this trial. The first information, No. 7594, charges that the defendant, the Koca Nola Company, shipped to New Orleans, in the State of Louisiana, from Atlanta, in the State of Georgia, a package of Koca Nola syrup containing Cocaine, without having the same branded upon the label on the package containing the Koca Nola syrup.

The second count in that information charges the defendant with shipping the same package from Atlanta, Georgia, to New Orleans, Louisiana, and charges that it contained a deleterious ingredient, to wit: Cocaine, which, the information alleges, may render and which did render said Koca Nola syrup injurious to health.

You see the first count in that first information charges that they shipped the package from Atlanta to New Orleans without the same being properly labeled, and the second count in that information is with reference to the same package and charges that it contained a deleterious ingredient, injurious to health.

The other information, No. 7630, contains three counts. Only the first and third counts are insisted on by the Government. The second is with reference to drugs, and the United States, upon information, concedes now that this is not a drug, it is a food, and consequently they admit that the Act applying to drugs is not applicable here, and only the first and third are insisted upon by the Government. The first charges the defendant with the shipping of a package of Koca Nola syrup from Atlanta, Georgia, to Anacostia, in the District of Columbia, and the same charges are made with reference to that as in the first count of the other information, that is to say, it was not properly labeled.

The third count charges the shipment of the same package from Atlanta, Georgia, to Anacostia, in the District of Columbia, and that it was adulterated and contained an added deleterious ingredient, namely Cocaine, which may and does render the syrup injurious to health.

So you see you have really four counts, two in the first information and two, the first and third, which are insisted upon, in the second information.

You will express by your verdict which are the counts on which you find the defendant guilty, if you find it guilty at all.

The first count in each of the informations is under that provision of the Act of Congress referred to which relates to misbranding of foods. The 8th Section of the Act provides that "for the purposes of this Act an article shall be deemed to be misbranded," so far as material here, and leaving out immaterial language and articles mentioned, "if it fail to bear a statement on the label of the quantity or proportion of any * * * Cocaine * * * or any derivative or preparation" of Cocaine or any derivative of the same.

To state it again "For the purposes of this Act an article shall be deemed to be misbranded if it fail to bear a statement on the label of the quantity or proportion of any Cocaine or any derivative of the same."

You will see from the Act that a package containing any article of food, if it contain Cocaine or any derivative or preparation of the same, must be so branded. In the opinion of the Court, notwithstanding the fact that you may believe from the testimony that so far as Cocaine was contained in this Koca Nola syrup shipped by the defendant it was in what are called "derivatives" of the same, still, if you believe that Cocaine, in any appreciable quantity, was in the syrup, it should have been so stated on the label. The object of the law is apparent, that is that the public shall be put distinctly on notice, and Cocaine, among other things mentioned in the Act, if it be in any preparation of food or drink, it must be so stated on the label. And it is immaterial also, in the opinion of the Court, if it is a small quantity, if it is an appreciable quantity. This Act says "any Cocaine" and if it contained any appreciable quantity of Cocaine, it should have been, in the opinion of the Court, shown by the label.

The testimony of all of the witnesses for the Government, as I understand it, is to the effect that there was Cocaine in both of these packages, the one shipped to New Orleans and the one shipped to Anacostia, and it is for you to say whether there would have been any difficulty about their stating exactly or approximately the proportion or quantity of Cocaine contained in the Syrup. Some of these witnesses, three I believe, have stated that they could have stated on the label the quantity contained, and while it was small, the fact that it was a small quantity would not render it, in the opinion of the Court, any the less a violation of the law. It would be a matter of degree only.

The second count in the first information and the third count in the second information are based on the provision of the law that for the purposes of the Act an article shall be deemed to be adulterated, leaving out immaterial language, "if it contain any poisonous or other added deleterious ingredient which shall render such article injurious to health."

You will inquire, in the first place, whether there was any Cocaine or Cocaine derivatives in this syrup and if so, if you believe that to be a deleterious ingredient, injurious to health. There has been testimony about that, and you will determine, in the first place, whether there was any Cocaine contained in the syrup shipped to New Orleans and to Anacostia, and if it was labeled, as in the first counts in the informations, and if you believe it contained Cocaine, was the same an article injurious to health, under the second counts in these informations.

Mr. Austin, who states that he is the President of the Koca Nola Company, Dr. Everhart and Dr. Heath have testified as you have heard on the stand. I understand their testimony was—first, Mr. Austin testified generally to the facts and his testimony you have heard. He claimed to be under the impression that it had no Cocaine in it at all. And Dr. Everhart says he used these bottles, which were gotten here, offered for sale in the market, that the same had water all ready in it, and that it contained, so far as he could ascertain, no Cocaine. Dr. Heath, I believe, said that he got the bottles for Dr. Everhart.

If you believe that the syrup shipped to New Orleans was misbranded and did not contain on the label on it that which it should have had, find the defendant guilty on the first count in the first information, No. 7594. If you believe that the same contained a deleterious ingredient, injurious to health, to wit: Cocaine, find the defendant guilty on the second count in the first information.

If you believe that the package of syrup shipped to Anacostia in the District of Columbia, was misbranded, as I have stated to you, and that it contained Cocaine and the same did not appear on the label, find the defendant guilty under the first count of the second information, No. 7630. If you find that this package shipped to Anacostia contained a deleterious ingredient, injurious to health, find the defendant guilty on the third count in that information, that is Cocaine, as I have stated.

As I have stated to you before, you need not pay any attention to the second count in this second information.

Now, Gentleman, the evidence is before you and it is a matter entirely for you to determine. You understand the purpose of this Act so far as branding and labeling articles of food is concerned and that is to put the public on notice that it contains in it certain ingredients which the law-makers have believed the public should know before purchasing.

As to the other, of course, it will be apparent that it shall not, in any event, whether branded or not, contain deleterious ingredients, injurious to health.

If you believe the defendant not guilty under any or all of the counts in the informations, you will find the defendant not guilty as to that or those.

Consider all of the testimony and determine whether these two particular packages, those are the ones with reference to which the charges here are made, whether they contain Cocaine or not.

You will see without difficulty, and I state again, that there are only four counts, two in the first and two in the second, leaving out the second count in the second information or that of the highest number. The first information refers to the package shipped to New Orleans and the first count to misbranding and the second to adulteration. The second information related to the package shipped to Anacostia, and the first count relates to misbranding and the second to adulteration.

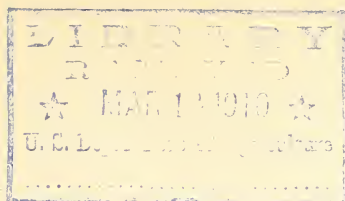
Take the case, Gentlemen; and express by your findings if you find the defendant guilty or not guilty, and if you believe it guilty express by your verdict under which counts you believe it to be guilty, whether under any or all of the counts.

rendered their verdict to the effect that said defendant was guilty on the first and third counts of information No. 7630, and under the first and second counts of information No. 7594. The court thereupon adjudged that the Koca Nola Company pay a fine of \$25 on each count, to wit, \$100.

The facts on which the above prosecutions were based were as follows: Specimens were obtained from the respective shipments set out in the informations and analyzed in the Bureau of Chemistry of the United States Department of Agriculture, where they were found to be adulterated and misbranded. After all parties in interest had been notified of the charges and afforded a hearing thereon, as provided for in section 4 of the act, the Secretary of Agriculture, on June 17, 1909, and on August 10, 1909, reported the offenses to the Attorney General. The cases were then referred to the United States Attorney for the Northern District of Georgia, who filed the informations above referred to, whereupon the cases were consolidated and tried with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 17, 1910.*



S. No. 236.

F. & D. No. 601.

Issued March 16, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 203, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"MOTHER'S FRIEND."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 16th day of July, 1909, in the District Court of the United States for the Eastern District of Louisiana, judgment was rendered in the case of the United States against 52 cases of "Mother's Friend," wherein a libel was filed under section 10 of the aforesaid act, alleging in substance that a certain drug contained in bottles labeled as follows:

"Mother's Friend, for relief of the suffering incident to childbirth. The Bradfield Regulator Company, Sole Proprietors, Atlanta, Ga."

and on one side of the carton containing said bottles:

"This is one of the greatest comforts to those expecting to become confined. It is a remedy upon which confidence can be placed, one that will assist in the safe and quick delivery, and that shortens the duration of labor. Such is Mother's Friend. Try it. It is a blessing to suffering women."

and on the other side of said carton:

"Mother's Friend has been used by hundreds of ladies throughout the country. It has been prescribed by many of our best physicians, and all pronounce it a success, giving relief from the dreadful pains and suffering of this trying time. Every woman expecting to become a mother should use it."

and in the literature accompanying said bottles:

"Morning sickness * * * to allay and cure this much dreaded affection we confidently advise the free application of Mother's Friend. To young mothers we offer you not the stupor

caused by chloroform with risk of death to yourself or your dearly loved and longed for baby but an agent which will if used as directed invariably alleviate in a most magical way the pains, horrors and risks of labor and often entirely do away with them, it leaves her much less liable to flooding, convulsions and other alarming symptoms which so frequently follow the birth. Naturally will such be the result of the continued use of Mother's Friend because it indirectly assists all the organs to more naturally perform their functions. Owing to faulty physical development, to errors in dress, in food and hygienic surroundings every woman is forced to suffer in some way for a longer or shorter time during her term. To prevent, alleviate or cure all the suffering as well as to rob labor itself of its horror and pain is the mission of Mother's Friend; Mother's Friend when used a few months before confinement causes an unusually easy and quick delivery."

which said drug had been shipped from the State of Georgia to the State of Louisiana, and found within the jurisdiction of the court in original unbroken packages, was misbranded in that the label above set out was false and misleading in claiming for the said drug properties and powers which it did not possess.

The Bradfield Regulator Company appeared as claimants and filed a stipulation admitting the allegations of the libel as true and consenting to the passage of the decree herein, which is in substance and form as follows:

IN THE UNITED STATES DISTRICT COURT. FOR THE EASTERN DISTRICT OF LOUISIANA.

UNITED STATES OF AMERICA, Libellant.

vs.

FIFTY-TWO CASES MOTHER'S FRIEND, BRADFIELD REGULATOR CO., Claimant. }

DECREE.

Now, on this day, this cause coming on for hearing on the agreed stipulation and consent of the parties, and the cause being submitted by the parties hereto upon the pleadings and admissions of the intervening claimant, the Bradfield Regulator Company, and said Claimant, by its Counsel, having appeared in Court and having waived the time and place of hearing, and having admitted the allegations and charges contained in the Libel of Information, and having consented that a final decree of condemnation be made in said case as provided for in Section 10 of the Act of Congress of June 30, 1906;

Wherefore, it is considered, ordered, adjudged and decreed by the Court that the United States Marshal shall take from said Forty-three cases and Thirty-nine bottles of Mother's Friend and all the unit packages therein, all of the matter complained of in said Libel as containing misbranding thereon, and shall advertise and sell said Forty-three cases and thirty-nine bottles of "Mother's Friend" as provided by law, and shall, out of the proceeds of such sale pay all costs, expenses and legal charges incident to said seizure and proceedings in said case, and pay the remainder, if any, into the Treasury of the United States, as provided in Section 10 of said Act of Congress; Provided, however, that said Bradfield Regulator Company, the Intervenor herein, upon the payment of all the costs of this Libel, including the costs of seizure, removal,

storage, and all the expenses incurred therein, and upon the execution and delivery and filing of a good and sufficient bond, with security, in the sum of ONE THOUSAND DOLLARS, conditioned that the said Bradfield Regulator Company, claimant as aforesaid, will not sell or dispose of said goods in violation of the laws of the United States or the laws of any State, Territory, District or Insular Possession of the United States, said Bradfield Regulator Company shall have the right to the possession of said goods now in the possession of the United States Marshal in said proceedings, and said United States Marshal and his lawful deputies are hereby directed to deliver to the said Bradfield Regulator Company, or its order, the aforesaid goods upon the execution and delivery of the aforesaid bond and payment of the aforesaid costs, expenses and charges, within twenty days from this date.

In open Court, this the 16 day of July, 1909.

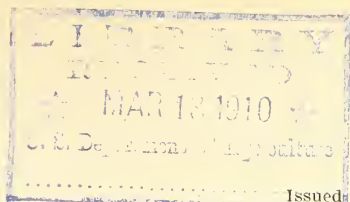
RUFUS E. FOSTER,
U. S. Judge.

The facts on which the above seizure was based were as follows:

On or about June 7, 1909, an inspector of the United States Department of Agriculture found in the possession of Finlay, Dicks & Co., at New Orleans, La., 27 cases of the drug labeled as heretofore described, and in the possession of the Parker-Blake Company, Ltd., 25 cases of the same, which had been shipped to said firms by the Bradfield Regulator Company, manufacturers, from Atlanta, Ga. Samples taken from the above consignments were analyzed by the Bureau of Chemistry of the United States Department of Agriculture and found to consist of an oil and a small quantity of soap. The product was deemed misbranded, and the Secretary of Agriculture, on June 7, 1909, reported the facts to the United States Attorney for the Eastern District of Louisiana, who filed the libel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 18, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 205, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"RADAM'S MICROBE KILLER."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 17th day of August, 1909, in the Supreme Court of the District of Columbia, holding a District Court of the United States for said District, judgment was rendered in the case of the United States against 12 cases of Radam's Microbe Killer, wherein a libel was filed under section 10 of the aforesaid act, alleging in substance that 12 cases of a drug preparation labeled: "Radam's Microbe Killer," found and offered for sale in the District of Columbia, were misbranded by reason of the following statements appearing on the package or in certain advertising matter accompanying the same:

"It is a positive and certain cure for all diseases and is guaranteed to be perfectly harmless. It will effect a cure in every instance if given a fair trial. Cures by removing the cause—microbes: microbe killer is perfectly harmless and can be taken in any quantity without danger. Radam's Microbe Killer is the only known principle that will destroy the microbes in the blood without injury to the system. * * * By removing the one cause it cures disease."

which statements are exaggerated, false, and misleading in this, that said drug preparation was not a cure for all disease, and in the form in which it was sold could not have killed the microbes of the several diseases referred to; and further misbranded in that said drug was represented as a cure for anaemia, asthma, blood poisoning, cancer, consumption, diabetes, diphtheria, la grippe, malaria, yellow fever, paralysis, pneumonia, whooping-cough, and other diseases, which representations were false and misleading in that said drug in the form in which it was prepared was not a cure for the diseases enumerated.

The libel prayed process against all claimants to the said 12 cases of said drug and seizure and condemnation of the same. No claimant having appeared to make answer to the libel, the court rendered the following decree:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA—HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA,	}	District Docket No. 827.
<i>vs.</i>		
TWELVE CASES LABELLED "RADAM'S MICROBE KILLER."		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above-entitled case, and it appearing to the Court that upon the libel filed herein on June 5, 1909, the Marshal of the United States for the District of Columbia seized twelve cases and four bottles of Radam's Microbe Killer, of the total value of about seven dollars and sixty cents; and it further appearing to the Court that due service of process and notice was given to Dean Swift, Gus A. Schultdt, and R. A. Boswell, partners trading under the firm name of Dean Swift and Company, at the time of the seizure of the said cases and bottles, and that the time required by the rules of this Court for making answer in this case has expired, and no appearance being entered on behalf of the said firm of Dean Swift and Company or any other claimant of said cases and bottles, and no objection being signified to the Court;

And it further appearing that the twelve cases and four bottles of Radam's Microbe Killer and each of them are branded and labelled, and that there is certain advertising matter accompanying the unit package, and that the said brands and labels and advertising matter state that the contents are a positive and certain cure for all diseases and that it will effect a cure in every instance if given a fair trial, and that it cures all diseases, and that it is the only known principle that will destroy the microbes in the blood without injury to the system, and that it is a cure for anaemia, asthma, blood poisoning, cancer, consumption, diabetes, diphtheria, la grippe, malaria, yellow fever, paralysis, pneumonia, whooping-cough and other diseases, referring in each and every case to the said Radam's Microbe Killer;

And it further appearing that the said brands and labels and advertising matter upon and accompanying the said cases and bottles bear certain statements regarding the ingredients and substances contained in said food and drug which are false and misleading, and such as deceive the purchaser and the public in this, that the said food and drug is not a positive and certain cure for all diseases, and that it will not effect a cure in every instance if given a fair trial, and that it does not cure all diseases, and that it is not the only known principle that will destroy the microbes in the blood without injury to the system, and that it will not destroy the microbes in the blood without injury to the system, and that it is not a cure for the diseases above-mentioned; and it further appearing that the said cases and bottles of the said food and drug have been offered for sale in the District of Columbia, and have been transported from the city of New York, state of New York, to the District of Columbia, as claimed in the said libel;

It is this 17th day of August, A. D. 1909,

Adjudged, ordered and decreed: That the said twelve cases and four bottles of the food and drug in the custody of the Marshal are misbranded within the

meaning of the said Act approved June thirtieth, A. D. 1906, and the statements regarding the ingredients and substances contained therein are false and misleading, as herein recited;

And it is further ordered: That the said twelve cases and four bottles be, and they are hereby, condemned, and that they shall be destroyed by the said Marshal in accordance with the provisions of the said Act approved June thirtieth, A. D. 1906;

And it is further ordered: That the said Dean Swift, A. Schuldt, and R. A. Boswell pay all the costs of these proceedings.

The facts upon which the above seizure was based were as follows:

An inspector of the United States Department of Agriculture found in the possession of Dean Swift & Company, at Washington, D. C., 12 cases of the drug heretofore described. A sample taken from this stock was analyzed in the Bureau of Chemistry of the United States Department of Agriculture. It was concluded from the analysis that the statements made concerning this preparation on the label and in the advertising matter were not justified, whereupon it appearing that the said drug was misbranded, the Secretary of Agriculture, on June 4, 1909, reported the facts to the United States Attorney for the District of Columbia, who filed the libel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 18, 1910.*



F. & D. Nos. 436 and 437.

I. S. Nos. 12814-a, 12815-a, and 12898-a.

Issued March 16, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 206, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 18th day of October, 1909, in the District Court of the United States for the Eastern District of Wisconsin, in prosecutions by the United States against the Wisconsin Butter and Cheese Company, a corporation of Elkhorn, Wis., for violations of section 2 of the aforesaid act in shipping and delivering for shipment from Wisconsin to Illinois adulterated milk, the said Wisconsin Butter and Cheese Company entered pleas of guilty and the court suspended sentence.

These cases were based upon samples of milk procured by the inspectors of the United States Department of Agriculture, on August 24, 1908, from the shipping cans after the milk had reached Chicago from the Wisconsin Butter and Cheese Company, Elkhorn, Wis., for delivery to Bendel or Bewdell Dairy Company, Chicago, Ill., and the Wm. Lowry Dairy Company, Chicago, Ill., respectively. The inspectors saw the said several shipments of milk delivered to the railroads at the point of shipment, identified each shipment with the consignor, and accompanied them to Chicago. The aforesaid samples were duly analyzed in the Bureau of Chemistry of the United States Department of Agriculture and it was found that they were adulterated in that cream, a valuable constituent thereof, had been abstracted.

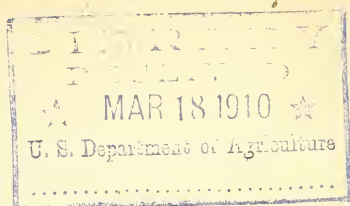
It appearing from the aforesaid analyses that the milk was adulterated, the Secretary of Agriculture gave notice to the Bendel

or Bewdell Dairy Company and the Wm. Lowry Dairy Company, the consignees of said product, and to the Wisconsin Butter and Cheese Company, the consignor of the same, and gave them an opportunity to be heard. The Wisconsin Butter and Cheese Company being solely responsible for said shipments and having failed to show any fault or error in the results of the said analyses, and it being determined that the milk was adulterated, the said Secretary, on February 17, 1909, reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Wisconsin, who filed informations against the aforesaid defendant, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 18, 1910.*





Issued March 17, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 207, FOOD AND DRUGS ACT.

MISBRANDING OF VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 78 Casks of Vinegar, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of said 78 casks of vinegar, lately pending, and finally determined on September 16, 1909, in the District Court of the United States for the District of Kansas, by rendition of an order of the court dismissing the cause and releasing and surrendering the goods seized to the Robinson Cider & Vinegar Company, the claimant in the case, upon execution and filing of a bond approved by the court.

On May 14, 1909, Dr. S. J. Crumbine, secretary of the State Board of Health of Kansas, acting under the authorization of the Secretary of the United States Department of Agriculture in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in the possession of the Meinrath Brokerage Company, Wichita, Kans., 78 casks of vinegar labeled "Warranted Cider Vinegar," these goods having been shipped by the Robinson Cider & Vinegar Company from Benton Harbor, Mich., on or about April 27, 1909, to the Wichita Vinegar Works, Wichita, Kans., which had refused to accept the consignment. A sample taken from the shipment was subjected to analysis by a collaborating chemist of the Bureau of Chemistry, and it was found not to be a cider vinegar, as claimed, in that it was not made wholly or entirely of apples, but contained less than 0.25 gram of apple ash in 100 cubic centimeters, and less than 30 cubic centimeters of decinormal acid were required to neutralize its alkalinity. The product was therefore misbranded under section 8 of the act in that it was labeled "Warranted Cider Vinegar," whereas, in fact, the casks contained a product which was not cider vinegar.

Accordingly, on May 26, 1909, the secretary of the State Board of Health of Kansas notified the United States Attorney for the District of Kansas that the aforesaid 78 casks of vinegar were then in the possession of the above-stated Meinrath Brokerage Company, Wichita, Kans., having been shipped as above stated, and that they were misbranded within the meaning of the act. On May 26, 1909, the United States Attorney filed a libel in the District Court of the United States for the District of Kansas praying seizure, condemnation, and forfeiture of the said vinegar. To this libel the Robinson Cider & Vinegar Company, of Benton Harbor, Mich., appeared, set up its claim to the vinegar, and filed a motion to dismiss the cause upon execution and filing of a bond to be approved by the court conditioned that the goods seized would not be sold or otherwise disposed of contrary to the laws of the United States or of any State or Territory. The case having come on for hearing on the motion, on September 16, 1909, the court issued an order, in substance and in form as follows, dismissing the cause upon execution and filing of a bond to be approved by the court:

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE DISTRICT OF KANSAS,
SECOND DIVISION.

UNITED STATES, <i>Plaintiff.</i>	}
<i>vs.</i>	
SEVENTY-EIGHT CASKS OF VINEGAR, <i>Defendant.</i>	

ORDER.

Now, on this 16th day of September A. D. 1909, this cause comes on for hearing on the motion of The Robinson Cider & Vinegar Company of Benton Harbor, Michigan, to discharge the property seized in this action by the Marshal of the United States for the District of Kansas, upon a warrant or order of seizure issued herein. The plaintiff appears by H. J. Bone, the United States District Attorney, and the said The Robinson Cider & Vinegar Company appearing by Holmes & Yankey, its attorneys, and the court having heard the matter, and being fully advised in the premises, it is considered, ordered, and decreed that upon the payment of all the costs herein by the said The Robinson Cider & Vinegar Company, and upon the said Company executing and filing a good and sufficient bond in the sum of One Thousand (\$1000.00) Dollars to be approved by the Judge of this Court, conditioned that the said goods seized in this action will not be sold or otherwise disposed of contrary to the law of any state or territory, the goods so seized shall thereupon be released and surrendered to the said The Robinson Cider & Vinegar Company, and this cause shall stand dismissed.

The said claimant, the Robinson Cider & Vinegar Company, having complied with the terms of the aforesaid order and section 10 of the Food and Drugs Act of June 30, 1906, the said 78 casks of vinegar were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., February 18, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 208, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"O. K. HEADACHE CURE."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 27th day of September, 1909, in the District Court of the United States for the Southern District of Texas, judgment was rendered in the case of the United States against the Houston Drug Co., a prosecution upon an information in substance charging said defendant with having shipped from Houston, Tex., to Detroit, Mich., twelve bottles of a drug preparation inclosed in cartons labeled and branded as follows: "O. K. HEADACHE CURE, Cures any Kind of Headache, Perfectly Harmless," which was misbranded in that the containers thereof failed to indicate to or advise the prospective purchaser or consumer of said preparation that it contained alcohol and acetanilid, the presence and quantity of which substances are required by law to be declared on the package containing same; and which was further misbranded in the following particulars, that it was not a cure for headache, and it was not perfectly harmless, because acetanilid, a dangerous drug necessitating skill and caution in the administration thereof, was present in said preparation.

The defendant pleaded guilty to the above information and the court imposed upon it a fine of \$50 and costs.

The facts on which the prosecution was based were as follows: An inspector of the United States Department of Agriculture purchased from the Michigan Drug Co., of Detroit, Mich., a sample of the product labeled as heretofore described, which was contained in a consignment received by said dealers from the Houston Drug Co., of Houston, Tex., the manufacturer thereof. The sample was analyzed in the Bureau of Chemistry, United States Department of Agriculture, and found to contain acetanilid and alcohol.

The analysis having disclosed a misbranding of the preparation, all parties in interest were duly notified and given an opportunity to be heard, and were heard in regard to said misbranding, whereupon the Secretary of Agriculture, on August 6, 1909, reported the apparent violation of the act to the Attorney General. The case was referred to the United States Attorney for the Southern District of Texas, who filed the information against the Houston Drug Co., with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 18, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 209, FOOD AND DRUGS ACT.

MISBRANDING OF SYRUP.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 6th day of July, 1909, in the District Court of the United States for the District of Colorado, judgment was rendered in the case of the United States against the Baker Preserving Company, a corporation, of Denver, Colo., a prosecution upon an information in substance charging said defendant with having shipped from the State of Colorado into the State of Nebraska 12 quart bottles containing syrup branded and labeled: "Baker & Co's Cane & Maple Sugar Syrup Denver, Colo.," which branding and labeling was misleading in this, that the words "cane & " were so placed thereon as to be practically invisible, wherefore it was branded and labeled so as to deceive and mislead the purchaser thereof, as the contents of said bottles consisted almost entirely of cane sugar syrup with a very small amount of maple syrup.

The defendant pleaded guilty to the information on the aforesaid date and the court imposed upon him a fine of \$10 and costs, amounting to \$20.15.

The facts on which the prosecution was based were as follows:

An inspector of the United States Department of Agriculture purchased from M. H. McAleese, at Benkleman, Nebr., a sample of the syrup labeled as heretofore described, which was taken from a consignment shipped to said dealer by the defendant from Denver, Colo. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and found to consist almost entirely of cane sugar syrup and a very little maple syrup. It was concluded from the analysis that the syrup was misbranded and

the said Baker Preserving Company and the said M. H. McAleese, were duly notified of the charge and given an opportunity to be heard and were heard in regard to said misbranding; whereupon, it appearing that there had been a violation of the act, the Secretary of Agriculture, on June 15, 1909, reported the facts to the Attorney General. The case was referred to the United States Attorney for the District of Colorado, who filed the information against the Baker Preserving Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C.; *February 18, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 210, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF PEPPER.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 4th day of November, 1909, in the District Court of the United States for the Eastern District of Missouri, judgment was rendered in the case of the United States *v.* Hanley & Kinsella Coffee & Spice Company, a prosecution upon an information containing two counts, in substance charging said defendant with having unlawfully shipped from St. Louis, Mo., to Albuquerque, N. Mex., a certain package or tin labeled "Compound Pepper, Packed by Chas. Ilfeld Co., Albuquerque, N. Mex.," the contents of which said package or tin were adulterated in that they consisted of a mixture of pepper and ground fruit stones with pepper shells; in that said ground fruit stones and pepper shells had been mixed and packed with said pepper so as to reduce, lower, and injuriously affect its quality and strength; in that said ground fruit stones and pepper shells had been substituted in place of the pepper; in that said pepper contained an added deleterious ingredient, to wit, ground fruit stones and pepper shells; and further charging that the contents of said package or tin were misbranded for the reason that the label thereof was false and misleading in this, that the contents were represented as pepper, when in truth and in fact said contents were a mixture of pepper, ground fruit stones, and pepper shells. The defendant on the aforesaid date pleaded guilty to the information and was fined \$25 on each count thereof.

The facts upon which the prosecution was based were as follows:

On or about December 9, 1907, an inspector of the United States Department of Agriculture purchased from the Union Store, Albuquerque, N. Mex., a sample of pepper labeled as heretofore described,

which was part of a lot purchased by said dealer from Chas. Ilfeld Co., Albuquerque, N. Mex., who in turn had received the same in a consignment shipped by the defendant herein from St. Louis, Mo. The sample was analyzed in the Bureau of Chemistry, of the United States Department of Agriculture, and found to contain ground fruit stones and pepper shells in addition to pepper. When it was found that the product was adulterated and misbranded, the said Chas. Ilfeld Co. and the said Hanley & Kinsella Coffee & Spice Company were duly notified of said charges and were given an opportunity to be heard and were heard in regard to said adulteration and misbranding; and it appearing that there had been a violation of the act, the Secretary of Agriculture, on March 9, 1909, reported the facts to the Attorney General. The case was referred to the United States Attorney for the Eastern District of Missouri, who filed an information against the said Hanley & Kinsella Coffee & Spice Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 19, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 211, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF MILK FLOUR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 5th day of November, 1909, in the District Court of the United States for the Eastern District of Pennsylvania, judgment was rendered in the case of the United States *v.* 5 Barrels of Milk Flour Product, wherein a libel was filed under section 10 of the aforesaid act, alleging, in substance, that five barrels of a product labeled "F. Behrend, 54 Front St., N. Y. Pure Vacuum dried Milk Flour, containing 5 per cent. Butter Fat", and which had been shipped from the State of New York to the State of Pennsylvania and which were in the jurisdiction of the court in original and unbroken packages, were adulterated, in that a valuable constituent thereof, to wit, upward of 3 per cent. of butter fat, had been abstracted therefrom; and which were misbranded in that said barrels were labeled so as to deceive and mislead the purchasers thereof with reference to the proportion of butter fat contained in said product.

The libel prayed process against all claimants to said five barrels of milk flour and seizure and condemnation of the same. H. J. Kuhnle Company appeared as claimants and filed an answer to the libel, substantially admitting the allegations thereof, whereupon the court rendered the following decree:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

UNITED STATES OF AMERICA	} No. 9 of 1909.
<i>v.</i>	
FIVE BARRELS OF MILK FLOUR PRODUCT	

LIBELS FOR CONDEMNATION.

Before HOLLAND, J.: And now, to wit, this fifth day of November, A. D. 1909, on motion of Henry S. Drinker, Jr., Esq., Attorney for H. J. Kuhnle & Company, the claimant in the above entitled cause, J. Whitaker Thompson, Esq., Attorney of the United States for the Eastern District of Pennsylvania, being present and consenting

thereto, and it appearing to the Court that upon the libel filed therein on the sixteenth day of October, A. D. 1909, a warrant of attachment was duly issued and served and the respondent was cited to appear on the fifth day of November, A. D. 1909; that by virtue of said warrant the United States Marshal for the Eastern District of Pennsylvania seized the property mentioned in said libel, to wit: Two Barrels of Dried Milk Flour labeled and branded as set forth in said libel, the said property having been in the possession and custody of H. J. Kuhnle & Company; and that under date of November 5, A. D. 1909, the said respondent filed an answer to said Libel, substantially admitting the acts as averred therein, but denying any intention on the part of said respondent to transgress or evade the laws of the United States, and consenting to the prayer thereof and agreeing to the condemnation of said property.

It is ordered, adjudged and decreed that the said property, to wit: Two Barrels of Dried Milk Flour, labeled and branded as set forth in said libel, is misbranded in violation of the Act of Congress approved the thirtieth day of June, A. D. 1906, as set forth in said Libel.

And it is further ordered that the said property, to wit: the said Two Barrels of Dried Milk Flour, labeled and branded as set forth in said Libel, be and the same is hereby condemned and ordered to be disposed of by sale as prayed for in the said Libel, and as provided for in the said Act of Congress approved the thirtieth of June, A. D., 1906.

And it is further ordered that the proceeds of said sale, less the legal costs and charges, shall be paid into the Treasury of the United States.

Provided, however, that upon the payment of all the costs of the proceedings herein, and upon the execution and delivery to the libellant by the said H. J. Kuhnle, trading under the firm name of H. J. Kuhnle & Company, of a good and sufficient bond in the sum of One Hundred Dollars (\$100.00), conditioned that the said Two Barrels of Dried Milk Flour, labeled and branded as set forth in said Libel, shall not be sold or otherwise disposed of contrary to the provisions of said Act of Congress approved the thirtieth day of June, A. D., 1906, the said Marshal shall redeliver the said Two Barrels of Dried Milk Flour, labeled and branded as set forth in said Libel, to the said H. J. Kuhnle, trading under the firm name of H. J. Kuhnle & Company, in lieu of disposing of the said property by sale as aforesaid, the said costs to be paid and the said bond to be filed herein, if at all, within five days from the date of this Order.

By the Court.

The facts which preceded the filing of the libel were as follows:

On or about October 14, 1909, an inspector of the United States Department of Agriculture found in the possession of H. J. Kuhnle Company, Philadelphia, Pa., five barrels of the product labeled as heretofore described, which had been shipped to said dealer by F. Behrend, of New York City, N. Y. Samples taken from this consignment were analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to have been manufactured from a closely skimmed milk and to contain only between 1 per cent. and 2 per cent. butter fat. The analysis having disclosed an adulteration and a misbranding of the product the Secretary of Agriculture, on October 15, 1909, reported the facts to the United States attorney for the Eastern District of Pennsylvania, who filed the above libel, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 19, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 212, FOOD AND DRUGS ACT.

MISBRANDING OF PRESERVES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of October, 1909, in the District Court of the United States for the District of Maryland, judgment was rendered in the case of the United States against William Numsen & Sons, Inc., upon information in substance charging said defendant with having unlawfully shipped from Baltimore, Md., to Houston, Tex., 12,000 cans of assorted preserves which were misbranded in this, that upon each of the packages containing the same there was a label bearing the following statement regarding the article contained therein: "This package contains one full pound," which statement was false and misleading in that each of said packages contained less than 1 full pound, to wit, an average of 14.5 ounces, and which were misbranded in that the label on each of said packages stated the contents thereof to weigh 1 full pound, whereas the true weight of said contents was about 14.5 ounces. The defendant pleaded guilty to the information on the aforesaid date and the court imposed upon it a fine of \$25.

The facts upon which the prosecution was based were as follows:

On or about March 20, 1909, an inspector of the United States Department of Agriculture purchased samples of the preserves labeled as heretofore described from William D. Cleveland & Sons at Houston, Tex., which samples were contained in a consignment of the product shipped to H. T. Keller & Company for delivery to said dealer, by William Numsen & Sons, Inc., Baltimore, Md. A number of the cans were weighed in the Bureau of Chemistry of the United States Department of Agriculture and the weight of the contents

of each can was found to be about 14.5 ounces. The examination having disclosed an apparent misbranding of the product, the said William Numsen & Sons, Inc., manufacturer, and all other parties in interest were duly notified of said charge and were given an opportunity to be heard and were heard in regard thereto, whereupon it having appeared that there had been a violation of the act, the Secretary of Agriculture, on August 12, 1909, reported the facts to the Attorney General. The case was referred to the United States Attorney for the District of Maryland, who filed an information against William Numsen & Sons, Inc., with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 21, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 213, FOOD AND DRUGS ACT.

ADULTERATION OF ICE CREAM.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 22d day of November, 1909, in the Police Court of the District of Columbia, judgment was rendered in the case of the United States *v.* Hugh Wallis, a prosecution upon an information in substance charging said defendant with having sold and offered for sale in the District of Columbia a quantity of so-called ice cream which was adulterated in that it contained less than 14 per cent. of milk fat, and further in this, that starch and gelatin had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality. The defendant on the aforesaid date pleaded guilty to the information. The court imposed upon him a fine of \$25.

The facts on which the prosecution was based were as follows:

On May 11, 1909, an inspector of the health department of the District of Columbia, acting under authorization of the Secretary of Agriculture to Dr. William C. Woodward, health officer of said District, procured a sample of what was represented to be ice cream from Hugh Wallis, 617 Twelfth street, NW., Washington, D. C., which sample was analyzed by said health department and found to contain less than 14 per cent. of milk fat, and also to contain starch and gelatin. The analysis having disclosed that said article was adulterated within the meaning of section 7 of the Food and Drugs Act, said Hugh Wallis was duly notified thereof and given an opportunity to be heard in regard to said adulteration, and it appearing that the act had been violated the health officer reported the facts to the United States attorney for the District of Columbia, who filed an information against the said Hugh Wallis, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 21, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 214, FOOD AND DRUGS ACT.

ADULTERATIONS OF MILK.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of judgments rendered in the Police Court of the District of Columbia, on the dates hereinafter mentioned, in the following cases involving violations of section 2 of the aforesaid act:

In *United States v. Robert E. Kanode*, of Gaithersburg, Md., the defendant, on November 23, 1909, was arraigned upon, and pleaded guilty to, an information charging him with the sale of milk in the District of Columbia which was adulterated in that butter fat, a valuable constituent thereof, had been abstracted therefrom; and the court imposed upon him a fine of \$10.

In *United States v. David Stup*, of Adamstown, Md., the defendant, on December 1, 1909, was arraigned upon, and pleaded guilty to, an information charging him with the sale of milk in the District of Columbia which was adulterated in that water had been mixed with it so as to lower and reduce its quality; and the court imposed upon him a fine of \$15.

In *United States v. Lyman T. Robinson*, of Meetze, Va., the defendant, on January 20, 1910, pleaded guilty to an information charging him with the sale of milk in the District of Columbia which was adulterated in that water had been mixed with it so as to lower and reduce its quality, and was fined \$15.

In *United States v. Albert Mack*, of Lewinsville, Va., the defendant, on January 20, 1910, was arraigned upon two informations charging him with sales of milk in the District of Columbia which was adulterated in that water had been mixed with it so as to lower and reduce its quality, and was fined \$15 in each case.

In *United States v. George R. Reeves*, of Glencarlyn, Va., the defendant, on January 20, 1910, pleaded guilty to an information charging him with the sale of milk in the District of Columbia which was adulterated in that water had been mixed with it so as to lower and injuriously affect its quality, and was fined \$15.

The facts on which the prosecutions were based were as follows:

An inspector of the health department of the District of Columbia, acting under authorization of the Secretary of Agriculture to Dr. William C. Woodward, health officer of said District, procured samples from milk sold and delivered at Union Station, Washington, D. C., by defendants in the above-mentioned cases, which were analyzed in the health department of the District of Columbia and found to be adulterated as above charged. All of said defendants were duly notified and given opportunities to be heard in regard to said adulterations, and it appearing that the act had been violated, the health officer reported the facts to the United States Attorney for the District of Columbia, who filed informations against the above-named defendants, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 21, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 215, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF COFFEE.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 30th day of September, 1909, in the District Court of the United States for the Southern District of Ohio, judgment was rendered in two cases of the United States against the Canby, Ach & Canby Company, both prosecutions upon informations for violation of section 2 of the aforesaid act. The first information in substance charged said defendant with having shipped from Dayton, Ohio, to Paris, Ill., one dozen cans containing an article of food labeled "The Canby, Ach & Canby Company's Mocha & Java Blend Coffee Roasted and packed only by the Canby, Ach & Canby Co., Dayton, Ohio," which was adulterated in that Maracaibo coffee had been substituted in part for the Mocha and Java coffees which said cans were represented to contain; and which was misbranded in that said cans were labeled so as to deceive and mislead the purchaser, for the reason that the contents thereof were represented as a blend of Mocha and Java coffees, when in truth and in fact said contents consisted of a mixture of Mocha and Java and washed Maracaibo coffees.

The second information charged said defendant with having shipped from Dayton, Ohio, to Columbus, Ind., sixty 1-pound packages of an article of food labeled, on one side of the packages, "Dresden Coffee, Rich, strong, aromatic, Imported, Roasted and blended by The Canby, Ach & Canby Company, Dayton, Ohio," and on the other side of said packages, "Dresden Coffee. Contains genuine Mocha and genuine Java blended with other high grade coffees, carefully selected for their cup merits," which was misbranded in that it was labeled so as to mislead and deceive the purchaser thereof, for the reason that said article was represented as composed of Mocha and Java, blended with other high-grade coffees, when in truth and in fact it consisted of two parts Santos coffee, one and three-fourths parts of Maracaibo

coffee, and one-fourth part of washed Santos coffee, and did not contain any Java or any Mocha coffee.

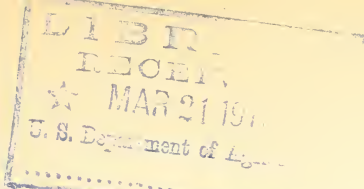
The defendant, on September 30, 1909, pleaded guilty to both informations and the court imposed a fine upon it of \$10 and costs in each case.

The facts upon which the above prosecutions were based were, respectively, as follows: On April 14, 1909, an inspector of the United States Department of Agriculture purchased from R. M. Link, Paris, Ill., a sample of coffee labeled as described in the first information, which sample formed a part of a shipment made to said dealer by The Canby, Ach & Canby Company from Dayton, Ohio. The sample was examined in the Bureau of Chemistry, United States Department of Agriculture, and found to consist of Mocha and Java and washed Maracaibo coffees. The examination having disclosed an adulteration and misbranding of the article, the said R. M. Link and the said Canby, Ach & Canby Company were duly notified thereof and were given an opportunity to be heard and were heard in regard to said charges. It appearing that there had been a violation of the act, the Secretary of Agriculture, on August 28, 1909, reported the facts to the Attorney General. The case was referred to the United States Attorney for the Southern District of Ohio, who filed an information against the Canby, Ach & Canby Company, with the result hereinbefore stated.

On May 26, 1909, an inspector of the United States Department of Agriculture purchased from J. V. Hughes, Columbus, Ind., a sample of coffee labeled as described in the second information, which sample was part of a shipment to said dealer made by the Canby, Ach & Canby Company from Dayton, Ohio. The sample was examined in the Bureau of Chemistry, United States Department of Agriculture, and found to consist of two parts Santos, one and three-fourths parts Maracaibo and one-fourth part of washed Santos coffees, and to contain no Mocha or Java coffee. A misbranding of the article having been disclosed by this examination, all parties in interest were duly notified thereof, and were given an opportunity to be heard and were heard in regard to said charges, and it having appeared that there had been another violation of the act on the part of the aforesaid company, the Secretary of Agriculture, on September 18, 1909, reported the facts to the Attorney General. The case was referred to the United States Attorney for the Southern District of Ohio, who filed a second information against the Canby, Ach & Canby Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 21, 1910.*



Issued March 19, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 216, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF HYDROGEN PEROXIDE.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of December, 1909, in the United States Circuit Court for the Eastern District of New York, judgment was rendered in the case of the United States *v.* Eimer & Amend, a corporation, of New York City, prosecuted for a violation of the aforesaid act upon an information in substance charging that said defendant filed a guaranty in accordance with the provisions of section 9 of the said act, which is as follows:

Eimer & Amend,
Manufacturers & Importers of
Chemicals and Chemical Apparatus.

NEW YORK, *Nov. 14, 1906.*

The SECRETARY OF AGRICULTURE,
Washington, D. C.

DEAR SIR: We, the undersigned, do hereby guarantee that all the articles of foods or drugs manufactured, packed, distributed or sold by us, including both crude and powdered drugs, alkaloids, chemicals, pharmaceutical preparations, medicinal specialties or proprietary medicines, and any and all articles of foods and drugs as defined by the food and drugs act, June 30, 1906, are not adulterated or misbranded within the meaning of the said act.

Respectfully yours,

EIMER & AMEND.
ROBERT P. AMEND,
Treasurer.

Attest

OTTO P. AMEND, [SEAL.]
Secy.

Sworn to before me this 25th day of November 1906.
[SEAL.]

JACOB B. TOCH.
Notary Public No. 39, N. Y. Co.

which said guaranty received a serial number, to wit, 591; and that thereafter the said Eimer & Amend sold and delivered to the Eastern Drug Company, New York City, a certain drug contained in a bottle

labeled: "Hydrogen Peroxide 1 pint Eimer and Amend, New York. Guaranteed under Food & Drugs Act, etc. No. 591.," which said drug, sold and delivered as aforesaid to the Eastern Drug Company, and afterwards reshipped in its original package by the agent of said company from New York to Boston, Mass., was adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of quality and purity therein laid down in this, that it contained acetanilid. The information further charged that the said drug was misbranded in that the container thereof failed to bear a statement of the quantity or proportion of acetanilid contained therein. On December 14, 1909, the defendant pleaded guilty to the information and was fined \$5.

The facts on which the prosecution was based, follow:

On June 8, 1908, an inspector of the United States Department of Agriculture purchased a sample of the drug, labeled as heretofore described, from the Eastern Drug Company, at Boston, Mass., which had been sold and delivered by Eimer & Amend to an agent of said drug company, in New York City, who afterwards reshipped the same to his company at Boston, Mass. The sample was analyzed in the Bureau of Chemistry, United States Department of Agriculture, and found to contain acetanilid. The analysis having disclosed that the said drug was adulterated and misbranded the said Eimer & Amend and the said Eastern Drug Company, were duly notified thereof, given an opportunity to be heard, and were heard in regard to said adulteration and misbranding. The Eastern Drug Company, having established a guaranty from its vendor, and it appearing that there had been a violation of the act, for which Eimer & Amend was responsible, the facts were reported, on April 16, 1909, to the Attorney General. The case was referred to the United States attorney for the Southern District of New York, who filed the above information, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 21, 1910.*

Issued March 19, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 217, FOOD AND DRUGS ACT.

MISBRANDING OF OLIVE OIL.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 15th day of June, 1909, in the District Court of the United States for the Eastern District of Louisiana, judgment was rendered in the case of the United States against King Bros., Shilstone & Saint, Ltd., a prosecution upon an information in substance charging said defendant with having shipped from New Orleans, La., to Poplarville, Miss., a quantity of oil labeled: "Balbiani & Cie. Huile d'Olive Superfine Raffinee," and on a supplemental label: "This product is composed of Imported Olive Oil and fifty per cent pure cotton seed salad oil. King Bros. Shilstone & Saint, Ltd., New Orleans, La.," which was misbranded in that the principal label represented the oil contained in the bottles on which it appeared to be genuine and unadulterated olive oil made and specially refined by a foreign company, known as Balbiani & Cie., whereas, in truth and in fact, the same was not imported olive oil, but an imitation thereof offered for sale and sold under the distinctive name of olive oil; and which was further misbranded in that it was labeled so as to mislead and deceive the purchaser; and further misbranded in this, by reason of the aforesaid label it purported to be a foreign product when not so; and further misbranded in that said label bore a statement, to wit, "Balbiani & Cie. Huile d'Olive Superfine Raffinee," to the effect that said oil was made and specially refined from olives by the foreign company, which statement was false and misleading for the reason that it led to the belief that it was a product of that foreign company when not so; and further misbranded in this, that the supplemental label above set out represented said oil to consist of 50 per cent of imported olive

oil, when, in fact, it did not contain said amount of imported olive oil. The information further charged that said product was not a mixture or compound which is known under its own distinctive name, but was an imitation of and offered for sale under the distinctive name of olive oil, and was not branded so as to plainly indicate that it was a compound, imitation, or blend, and that neither of the words "compound," "imitation," or "blend" appeared on the label.

On June 15, 1909, the defendant pleaded guilty to the information and was fined \$10.

The facts on which the prosecution was based follow:

On or about March 21, 1908, an inspector of the United States Department of Agriculture purchased from McInnis & Stevenson, Poplarville, Miss., a sample of the oil labeled as heretofore described, which was contained in the shipment made to said dealers by King Bros., Shilstone & Saint, Ltd., from New Orleans, La. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist of more than 50 per cent of cottonseed oil. The analysis having disclosed a misbranding of the oil, the said King Bros., Shilstone & Saint, Ltd., and the said McInnis & Stevenson, were duly notified thereof, and were given an opportunity to be heard, and were heard in regard to the said misbranding; and it appearing that there had been a violation of the act, the Secretary of Agriculture, on January 26, 1909, reported the facts to the Attorney General. The case was referred to the United States attorney for the Eastern District of Louisiana, who filed an information against King Bros., Shilstone & Saint, Ltd., with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 21, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 218, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF STRAWBERRY EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 15th day of June, 1909, in the District Court of the United States for the Eastern District of Louisiana, judgment was rendered in the case of the United States against King Brothers, Shilstone & Saint, Ltd., a prosecution upon an information in substance charging said defendant with having unlawfully shipped from New Orleans, La., to Magnolia, Miss., a certain article of food, to wit, one lot of so-called "Crown Extract of Strawberry" which was adulterated in that the said extract of strawberry purported to be a flavor made and prepared from strawberry fruit with no artificial coloring, whereas in truth and in fact, the said extract was not made of strawberry fruit, but was an article artificially made and colored, whereby damage and inferiority were concealed; and further adulterated in that a substance was mixed and packed with the same so as to reduce, lower, and injuriously affect its quality and strength, and further in that said substance was substituted wholly or in part for the said strawberry extract. The second count of the information charged that the so-called strawberry extract, shipped as aforesaid, was misbranded in this, that the bottles containing the same were each labeled: "Crown Extract of Strawberry, Prepared by the Phoenix Extract Co., New Orleans, La.," which said label constituted a misbranding for the reason that the article contained in said bottle was represented to be genuine strawberry extract made from the fruit, when, in truth and in fact, the same was an imitation of the genuine strawberry extract, offered for sale and sold under the distinctive name of said genuine article; and further misbranded in that it was labeled so as to mislead

and deceive the purchaser into believing that it was the genuine extract of strawberry, when, in truth and in fact, it was not.

The defendant pleaded guilty to the information on June 15, 1909, and was fined \$10 and costs.

The facts on which the prosecution was based follow:

On or about April 6, 1908, an inspector of the United States Department of Agriculture purchased a sample of the so-called strawberry extract labeled as heretofore described from R. Tuminello, at Magnolia, Miss., which sample was contained in a consignment of said article shipped to said R. Tuminello by King Brothers, Shilstone & Saint, Ltd., from New Orleans, La. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to be an imitation extract of strawberry artificially colored. The analysis having disclosed that the article was adulterated and misbranded, the said King Brothers, Shilstone & Saint, Ltd., and the said R. Tuminello were duly notified thereof and given an opportunity to be heard in regard to said adulteration and misbranding, and it appearing that there had been a violation of the act on the part of King Brothers, Shilstone & Saint, Ltd., the facts were reported to the Attorney General on February 25, 1909, by the Secretary of Agriculture. The case was referred to the United States Attorney for the Eastern District of Louisiana, who filed an information against the said corporation, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 21, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 219, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* Henry Boberink, of Lawrenceburg, Ind., a prosecution lately pending in the District Court of the United States for the District of Indiana for violation of section 2 of the aforesaid act in the shipment from Indiana to Ohio by the aforesaid defendant of milk which was adulterated within the meaning of section 7 of the act in that it consisted in part of a filthy, decomposed, and putrid animal substance. On November 30, 1909, the defendant having been arraigned upon an indictment alleging the aforesaid shipment by him of adulterated milk, entered his plea of guilty and was sentenced by the court to pay a fine of \$10.

This case was based upon a sample of milk procured by an inspector of the United States Department of Agriculture, on March 16, 1909, from the shipping can after the milk had reached Cincinnati, Ohio, from the consignor for delivery to Tom Davis, Cincinnati, Ohio. The inspector saw the shipment of milk delivered to the railroad at the point of shipment, identified it with its consignor, and accompanied it to Cincinnati. The aforesaid samples were duly analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist in part of a filthy, decomposed and putrid animal substance.

It appearing from the aforesaid analysis that the milk was adulterated, the Secretary of Agriculture gave notice to Tom Davis, the dealer from whom the sample was procured, and also to Henry Boberink, the shipper, and gave them an opportunity to be heard.

The said Henry Boberink being the party solely responsible for the shipment and having failed to show any fault or error in the result of the said analysis, and it having been determined that the milk was adulterated, the said Secretary on August 20, 1909, reported the facts and evidence to the Attorney General by whom they were referred to the United States attorney for the District of Indiana, who presented the facts and evidence to the Grand Jury, by whom an indictment was returned against the aforesaid defendant, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 23, 1910.*

United States Department of Agriculture,
OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 220, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF TURPENTINE.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 2 Drums Turpentine, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 2 drums of turpentine, lately pending, and finally determined on May 18, 1909, in the District Court of the United States for the District of Vermont by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

The case having come on for final hearing and no one appearing to make any answer to the allegations of the said libel, on May 18, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF VERMONT.

UNITED STATES
vs.
TWO DRUMS TURPENTINE. }

This cause came on for hearing on the 18th day of May, 1909, and it appearing that said libel was duly served and returned, and no one appearing to make any answer to the allegations in said libel, and it being made manifest that all and singular the premises aforesaid, are true, and within the jurisdiction of this court, it is thereupon ordered and decreed that the said two drums of turpentine in the information and libel mentioned, be, and the same are condemned as forfeited for the causes in said libel and information set forth.

Done in court at Windsor, this 18th day of May, 1909.

JAMES L. MARTIN,
United States District Judge.

The facts in the case were as follows:

On or about January 26, 1909, an inspector of the Department of Agriculture found in the possession of the Dr. B. J. Kendall Company, Enosburg Falls, Vt., 2 drums containing about 112 gallons of turpentine, labeled "Spirits Turpentine," which had been manufactured and shipped to said Kendall Company by the Carolina Pine Products

Company, a corporation of Cleveland, Ohio, on December 16, 1908. A sample was taken from this consignment and analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain 35 per cent of mineral oil. From the aforesaid analysis it appeared that the article was adulterated within the meaning of the act in that it was sold under the name of "Spirits Turpentine," which in common parlance means, and is identical with, "oil of turpentine," a name recognized in the United States Pharmacopoeia, while it differed, in fact, from the standard of strength, quality, and purity laid down therein in that a quantity of mineral oil had been substituted in part for the genuine article; and was misbranded within the meaning of section 8 of the act in that it was labeled "Spirits Turpentine," whereas it was not, in fact, spirits of turpentine, or oil of turpentine, but a mixture of oil of turpentine and mineral oil.

Accordingly, on January 28, 1909, the Secretary of Agriculture notified the United States attorney for the District of Vermont that the aforesaid 2 drums of turpentine were then in the possession of the said Dr. B. J. Kendall Company, Enosburg Falls, Vt., having been shipped as above stated, and that they were adulterated and misbranded within the meaning of the act. On February 1, 1909, the United States attorney filed a libel in the District Court of the United States for the District of Vermont praying seizure, condemnation, and forfeiture of the said goods, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 23, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 221, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF CAMPHOR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of December, 1909, in the District Court of the United States for the District of Connecticut, in a prosecution by the United States against the Arthur Chemical Company, a corporation of New Haven, Conn., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Connecticut to New York a quantity of adulterated and misbranded camphor, the said Arthur Chemical Company entered a plea of guilty and the court imposed upon it a fine of \$100.

The facts in the case were as follows:

On May 21, 1909, an inspector of the Department of Agriculture purchased from Henry Voelker, Troy, N. Y., a sample of a product labeled (on carton)—“Arthur’s Spirits Camphor, U. S. P. Guaranteed under the Pure Food and Drugs Act, June 30th, 1906. Serial No. 19389. Price 10¢. From the 5¢ and 10¢ Drug Cabinet Co., Chemists, New Haven, Conn.” (On bottle)—“Spirits Camphor. Contains Alcohol 86%. Dose: From five drops to a teaspoonful, first added to sugar and then mixed with water. Price 10 Cents.”

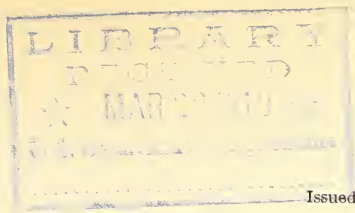
The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and it was found to be 14 per cent. below the standard of strength prescribed for spirits camphor by the United States Pharmacopoeia. It was therefore adulterated within the meaning of section 7 of the act in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, or purity determined therein and did not have its own correct standard of strength, quality, or purity declared upon

the package; and was misbranded within the meaning of section 8 of the act in that it was labeled "Spirits Camphor," which statement was misleading in that it would lead the purchaser to believe that he was purchasing an article of standard strength, whereas, as shown by the analysis, the article was 14 per cent. below the standard, and further in that the percentage of alcohol declared on the bottle was incorrect.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to Henry Voelker, the dealer from whom the sample was purchased, and also to The Five and Ten Cent Drug Cabinet Company, the manufacturer and shipper. It appeared that The Arthur Chemical Company, which was formerly named and known as The Five and Ten Cent Drug Cabinet Company, was the party solely responsible for the adulteration and misbranding of the article, and it failing to show any fault or error in the result of the aforesaid analysis, and it having been determined that the article was adulterated and misbranded, on November 4, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States attorney for the District of Connecticut, who filed an information against the Arthur Chemical Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 23, 1910.*



Issued March 19, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 222, FOOD AND DRUGS ACT.

MISBRANDING OF PRESERVES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 516 Cases of Preserves, a proceeding of libel under section 10 of the aforesaid act for the seizure and condemnation of the said 516 cases of preserves, lately pending, and finally determined on April 17, 1909, in the District Court of the United States for the Southern District of Texas by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On March 20, 1909, the United States attorney filed a libel in the District Court of the United States for the Southern District of Texas praying seizure, condemnation, and forfeiture of the said preserves. To this libel Wm. Numsen & Sons, Inc., appeared, set up its claim to the preserves, filed its answer, and, together with the United States attorney, submitted the issue to the court upon an agreed statement of facts. The case having come on for final hearing on April 17, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

DISTRICT COURT OF UNITED STATES FOR SOUTHERN DISTRICT OF TEXAS, HOUSTON
DIVISION.

UNITED STATES OF AMERICA, <i>Libellant</i> ,	}	No. 23 D. L.
<i>vs.</i>		
516 CASES OF PRESERVES.		

ORDER.

In this cause it appearing to the Court that Wm. Numsen & Sons has this day filed its claim and answer to the information and monition issued out of this court wherein said claimant confesses the matters and things set forth in said information and in violation of the Act of Congress, approved June 30, 1906, entitled "An Act for preventing the Manufacture, Sale and Transportation of Adulterated or Misbranded, or

Poisonous, or Deleterious Foods, Drugs, Medicines, and liquors, and for regulating Traffic therein, and for Other Purposes", and prays the court to enter a decree and judgment in said cause as in said information requested: and claimant through its agent, Herman T. Keller, consenting thereto, and the court having heard the statements and arguments of counsel on behalf of the said claimant, and on behalf of the United States and being fully advised in the premises:

It is therefore by the Court ordered, adjudged and decreed that the 512 cases of Preserves described in the information filed in this case as 516 cases of preserves, more or less, and now in the possession of the United States Marshal for this Division and District, in the warehouse of Henke & Pillot, in Houston, Harris County, Texas, be and the same is hereby declared condemned and forfeited as misbranded within the meaning of the Act aforesaid and the said Wm. Numsen & Sons, the vendor and shipper of the said articles, appearing by its claim herewith filed, admitting that said articles were shipped contrary to the provisions of said Act of Congress, but that the same was without fraudulent intent, and that it proposes to reclaim the goods and to comply with the provisions of the law in the future, and requesting of the court the benefits and privileges of the proviso of Section 10, of the Acts of Congress aforesaid, that it be permitted to pay the costs of said libel proceedings and to execute and deliver a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the law, and the court being fully advised and satisfied in the premises:

It is further ordered that upon the payment of the costs in this proceeding of libel and upon the execution of a bond to the United States in the sum of \$4,000.00, with sufficient surety, to be approved by the Judge of this court, with the condition that said articles shall not be sold contrary to the law, within ten days herefrom, then the libel proceedings herein against said articles shall be discontinued and dismissed; otherwise, the Marshal of this District is directed after first properly labelling said 512 cases of preserves to advertise same for sale in some newspaper published in the City of Houston, Harris County, Texas, at least 15 days before the day of the sale and sell the same on the premises of the said _____ County, Texas, for cash to the highest bidder, and to hold the proceeds of such sale until further orders of this court.

(Signed) W. T. BURNS, *Judge*.

The facts in the case were as follows:

A sample of preserves labeled "Convenient brand preserves 1 full lb." had been weighed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain 14 ounces of preserves, when an inspector of the said Department found in the possession of Henke & Pillot, a corporation of Houston, Texas, 516 cases of the said preserves, each case labeled "4 dozen 1 lb. convenient brand preserves," and each can labeled "Convenient brand preserves 1 full lb." The preserves had been shipped in September, 1908, to Henke & Pillot by Wm. Numsen & Sons, Baltimore, Md. It appeared that the preserves were misbranded within the meaning of section 8 of the act in that the label purported to correctly state the contents in terms of weight, which statement was incorrect.

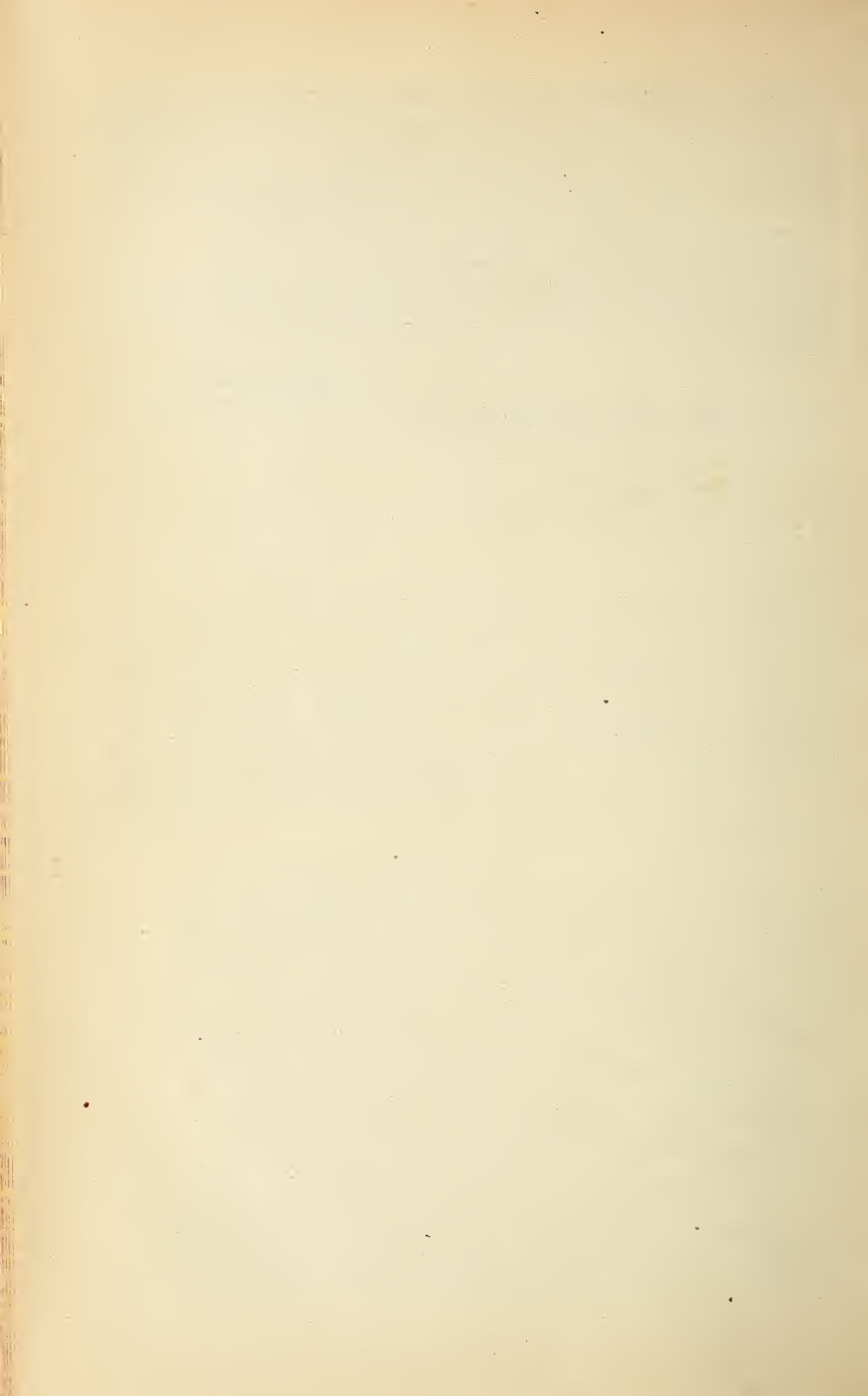
Accordingly, on March 19, 1909, the Secretary of Agriculture notified the United States attorney for the Southern District of Texas that the aforesaid 516 cases of preserves were then in the possession

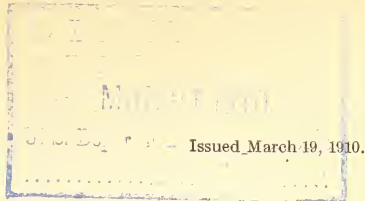
of Henke & Pillot, Houston, Tex., having been shipped as hereinbefore stated, and that they were misbranded within the meaning of the act. The United States attorney accordingly, on March 20, 1909, filed a libel in the District Court of the United States for the Southern District of Texas praying seizure, condemnation, and forfeiture of the said preserves, with the result hereinbefore stated.

The said claimant, Wm. Numsen & Sons, Inc., having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 516 cases of preserves were re-delivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 23, 1910.*





United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 223, FOOD AND DRUGS ACT.

MISBRANDING OF CONDENSED MILK.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 200 Cases of Condensed Milk, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 200 cases of condensed milk, lately pending, and finally determined on June 23, 1909, in the District Court of the United States for the Eastern District of Louisiana by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On June 19, 1909, the United States attorney filed a libel in the District Court of the United States for the Eastern District of Louisiana praying seizure, condemnation, and forfeiture of the said condensed milk. To this libel Libby, McNeill & Libby, Ltd., Inc., appeared, set up its claim to the milk, filed its answer, and, together with the United States attorney, submitted the issue to the court upon an agreed statement of facts. The case having come on for final hearing, on June 23, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF LOUISIANA.

UNITED STATES	}
vs.	
200 CASES OF CONDENSED MILK	

Now comes the United States of America, by W. J. Waguespack, Asst. United States Attorney, for the Eastern District of Louisiana, and the claimants, Libby, McNeill & Libby, Ltd., Inc., through Saunders Dufour & Dufour, its Attorneys, claimants and owners of the condensed milk seized by the United States Marshal, pursuant to the libel filed in the above entitled and numbered cause, and upon pleadings filed in open Court.

It is ordered, adjudged and decreed that the condensed milk be, and the same are, condemned as misbranded, but upon the payment of the costs of these proceedings by the claimants, and the giving of a bond in the sum of \$1,000 by the said Libby, McNeill & Libby, Ltd., Inc., conditioned that the said condensed milk will not be disposed of by them contrary to the provisions of the Food & Drugs Act, approved June 30th, 1906, or the laws of any State, territory, district, or insular possession.

It is ordered: that the said condensed milk be delivered to the claimants herein.
June 23, 1909.

(Signed) RUFUS E. FOSTER,
Judge.

The facts in the case were as follows:

On June 3, 1909, Libby, McNeill & Libby, Ltd., Inc., New Orleans, La., shipped from Morrison, Ill., to themselves at New Orleans, La., 200 cases each containing 12 cans of condensed milk. The cans contained in the shipping cases bore the following label: "Rubric Brand Condensed Milk, Emery Food Company, Chicago, U. S. A., packed at Morrison, Illinois, net weight 14 ounces. Guaranty serial No. 2829."

A sample was weighed in the Bureau of Chemistry of the United States Department of Agriculture and found to average a shortage of 20 per cent. of the weight declared on the label. The article was therefore misbranded within the meaning of section 8 of the act in that it purported to state on the label its contents in terms of weight, which statement was incorrect.

Accordingly, on June 19, 1909, the Secretary of Agriculture notified the United States Attorney for the Eastern District of Louisiana that the aforesaid 200 cases of condensed milk were then in the possession of Libby, McNeill & Libby, Ltd., Inc., New Orleans, La., having been shipped as above stated, and that they were misbranded within the meaning of the act. On June 19, 1909, the United States Attorney filed a libel in the District Court of the United States for the Eastern District of Louisiana praying seizure, condemnation, and forfeiture of the said condensed milk, with the result hereinbefore stated.

The said claimant, Libby, McNeill & Libby, Ltd., Inc., having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1908, the said 200 cases of condensed milk were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., February 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 224, FOOD AND DRUGS ACT.

ADULTERATION OF LIQUID EGGS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 21st day of December, 1909, in the District Court of the United States for the Southern District of New York, judgment was rendered in the case of the United States against 144 cans of frozen eggs, wherein a libel was filed under section 10 of the aforesaid act, alleging in substance that 144 cans of liquid eggs, frozen, which had been shipped from Boston, Mass., to New York City, were adulterated in that each of the aforesaid cans contained an article of food, to wit, liquid eggs, to which formaldehyde, a poisonous substance injurious to health, had been added; and further adulterated in that said eggs were composed wholly or in part of filthy, decomposed, and putrid matter.

The libel prayed process against all claimants to said liquid eggs and seizure and condemnation of the same. No claimant having appeared to make answer to the libel, the court rendered the following decree:

At a stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court Rooms, in the City of New York, in the said District, on the 21st day of December, in the year of our Lord one thousand nine hundred and nine.

Present—The Honorable GEORGE B. ADAMS, District Judge.

THE UNITED STATES OF AMERICA	}
vs.	
ONE HUNDRED FORTY-FOUR CANS FROZEN EGGS.	

FINAL DECREE.

The monition issued in this cause, having been heretofore returned, and the usual proclamation having been made, and the default of all persons being duly entered, it is thereupon on motion of Henry A. Wise, Esq., Attorney for the United States,

ordered, sentenced, and decreed, by the Court, now here, and his Honor the District Judge, by virtue of the power and authority in him vested, doth hereby order, sentence, and decree, that the goods, wares, and merchandise above mentioned be, and the same accordingly are, condemned as forfeited to the United States.

And upon like motion it is further ordered, sentenced and decreed that the Clerk of this Court issue a writ of destruction to the Marshal of the District, directing the said Marshal to destroy said goods, wares and merchandise, the said writ to be returnable on the first Tuesday of January, 1910.

The facts which led to the above seizure were:

On or about November 29, 1909, there was found on the wharf of the New England Navigation Company, New York City, 144 cans of liquid eggs, which were originally consigned by Henry Sloan & Co. from Buffalo, N. Y., to Morris Brown of Boston, Mass. An inspector of the United States Department of Agriculture called at the establishment of the Boston consignee to collect a sample, which was refused by said consignee, acting upon the instructions of his immediate consignor, Sloan, who had stated to him in a letter that the eggs were doctored and should be hidden from the inspector and immediately shipped to Samuel Rottenberg, New York City. On November 27, 1909, they were reshipped by the said Morris Brown to said Rottenberg and were seized on Pier 18, North River, New York City, before delivery could be made to him.

Henry Sloan & Co., the first consignors, are dealers in "spot" and rotten eggs, which they claimed were marketed solely for tanners' use. Samuel Rottenberg of New York City, the last-named consignee, is a dealer engaged in bakers' supplies, the largest portion of his trade being in the distribution of eggs. The circumstances of the shipment and the business in which the parties are engaged warranted the assumption that said eggs were putrid and unfit for human consumption, whereupon, on November 29, 1909, the Secretary of Agriculture reported the foregoing facts to the United States attorney for the Southern District of New York, who filed the above libel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 225, FOOD AND DRUGS ACT.

MISBRANDING OF HEADACHE TABLETS.

On or about August 31, 1909, Adam C. Huthwelker shipped from Baltimore, Md., to Philadelphia, Pa., a quantity of so-called Huthwelker's Headache Tablets. A sample procured from the shipment was analyzed in the Bureau of Chemistry of the United States Department of Agriculture. As the findings of the analyst indicated that the drug was misbranded within the meaning of the Food and Drugs Act, the said Adam C. Huthwelker, and the party from whom the sample was procured, were afforded opportunities for hearings; and as it appeared after the hearings held that the above shipment was made in violation of the aforesaid act, the Secretary of Agriculture reported the fact to the Attorney General, together with a statement of the evidence upon which to base a prosecution.

In due course, a criminal information against the above-named shipper was filed in the United States Court for the District of Maryland, charging that the drug shipped as aforesaid was misbranded, in that the label upon the packages containing the same bore the following statement: "A Positive Cure for Every Form of Headache and Neuralgia," which statement was false and misleading, for the reason that the article was not a positive cure for every form of headache and neuralgia; in that said label represented the product as harmless, when, in truth and in fact, it was not so; and, further, in that said label failed to bear a statement of the quantity or proportion of acetanilid contained therein.

On January 29, 1910, the defendant pleaded guilty to the information and was fined \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 226, FOOD AND DRUGS ACT.

MISBRANDING OF LAUDANUM.

On or about March 18, 1909, Henry S. Wampole & Co., a corporation, shipped from Baltimore, Md., to Norfolk, Va., a quantity of laudanum. Samples were procured from the shipment and analyzed in the Bureau of Chemistry, Department of Agriculture. As the finding of the analyst and report made indicated that the drug was adulterated and misbranded within the meaning of the Food and Drugs Act, the Secretary of Agriculture afforded Henry S. Wampole & Co., and the party from whom samples were procured, opportunities for hearings; and as it appeared after hearings held that the above shipment was made in violation of the Food and Drugs Act, the Secretary of Agriculture reported the facts to the Attorney-General, together with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed against Henry S. Wampole & Co., in the District Court of the United States for the District of Maryland, charging that the laudanum shipped as aforesaid was adulterated in that it differed from the standard of strength, quality, and purity as determined by the test laid down in the United States Pharmacopoeia or National Formulary; in that the label thereof represented the drug to be of the highest quality and strictly pure, whereas, in truth and in fact, it was not of the highest quality and not strictly pure; and further misbranded in that said label contained the false and misleading statement that the said drug contained 45.5 grains of opium to the ounce, when, in fact, there was present 37.7 grains of opium to the ounce.

The defendant pleaded guilty to the information on January 29, 1910, and was fined \$20.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 227, FOOD AND DRUGS ACT.

ADULTERATION OF DESICCATED EGG.

On or about July 31, 1909, the Columbia Desiccated Egg Co., of Chicago, Ill., shipped from the State of Illinois into the District of Columbia six drums of desiccated egg. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act, of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia. In due course a libel was filed against the said six drums of desiccated egg, charging adulteration of the product within the meaning of the act, because it was in a filthy, decomposed, and putrid condition and unfit for human consumption, and praying seizure, condemnation, and forfeiture. On October 29, 1909, the said Columbia Desiccated Egg Co. filed an answer and set up claim to the product. Subsequently, on January 31, 1910, the attorneys for the Columbia Desiccated Egg Co., by leave of court, withdrew said answer and struck out their appearance from the record. Accordingly, on January 31, 1910, there being no claimant of record, the case came on for final hearing and the court rendered its decree of condemnation and forfeiture in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA—HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA	} District Docket No. 836.
<i>vs.</i>	
SIX DRUMS OF COLUMBIA BRAND DESICCATED EGG.	

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above-entitled cause, and it appearing to the Court that upon the libel filed herein on the eighteenth day of August, A. D. 1909, the Marshal of the United States for the District of Columbia has seized five drums of Columbia Brand Desiccated Egg, found in the possession of Holmes and Son; and that the said drums of desiccated egg, and

each of them, were transported from the State of Illinois to the District aforesaid, and remain in the possession of the said Holmes and Son, unsold and in original unbroken packages; that a copy of the writ was duly served upon Holmes and Son by the said Marshal of the United States, and a copy of the same duly affixed to the court-house door; and that the answer of the Columbia Desiccated Egg Co., a body corporate, as intervenors, filed herein on the twenty-ninth day of October, A. D. 1909, has been withdrawn, and the appearance of the attorneys for said Columbia Desiccated Egg Co. has been stricken out, and the time for filing the response and answer to the libel herein has expired, and no response or answer being filed to said libel, and no objection being signified to the Court; and it further appearing that the contents of the said five drums of desiccated egg, and each of them, are in a filthy, decomposed and putrid condition, and unfit for human consumption,

It is, by the Court, this thirty-first day of January, A. D. 1910

Adjudged, ordered and decreed: That the contents of the said five drums of desiccated egg in the custody of the said Marshal of the United States, are adulterated within the meaning of the act of Congress approved June 30, A. D. 1906.

It is further ordered that the said contents of the five drums of desiccated egg, and each of them, be, and they are hereby condemned, and shall be destroyed by the said Marshal of the United States, in such manner as provided by the said Act of Congress approved June 30, A. D. 1906.

It is further ordered that the said Holmes and Son pay all the costs of these proceedings.

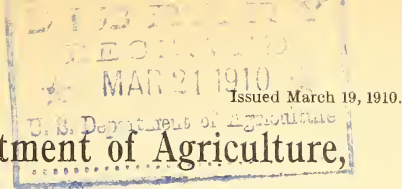
By the Court.

WENDELL P. STAFFORD,
Justice.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 228, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

On or about September 10, 1909, William W. Soper, of Boyds, Md., sold and delivered at Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the finding of the analyst and report made indicated that the article was adulterated within the meaning of the Food and Drugs Act, the said William W. Soper was afforded an opportunity for hearing, and as it appeared after the hearing held that the above sale was made in violation of the said act, the said health officer reported the facts to the United States attorney for the District of Columbia.

In due course, a criminal information against the said William W. Soper was filed in the Police Court of the District of Columbia charging that the milk delivered and sold as aforesaid was adulterated, for the reason that a valuable constituent, butter fat, had been abstracted therefrom.

On January 4, 1910, the defendant pleaded guilty to the information and was fined \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*

31044—10



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 229, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

On or about December 16, 1909, Charles A. Walter, of Doubs, Md., sold and delivered at Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the finding of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act, the said Charles A. Walter was afforded an opportunity for hearing, and as it appeared after the hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States attorney for the District of Columbia.

In due course, a criminal information against the said Charles A. Walter was filed in the Police Court of the District of Columbia, charging that said milk was adulterated in that a valuable constituent, butter fat, had been abstracted therefrom.

On January 3, 1910, the defendant pleaded guilty to the information and was fined \$15.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 230, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF STOCK FOOD.

On or about November 30, 1909, the J. Lindsay Wells Company, of Memphis, Tenn., shipped from Augusta, Ga., to Knoxville, Tenn., 500 sacks of a product known as "Stock Food." Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated and misbranded under the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Tennessee, who filed a libel against the said 500 sacks of stock food, praying seizure, condemnation, and forfeiture, and charging that said product was adulterated in violation of section 7 of the act, in that it contained 15 per cent. of hulls, which had been mixed and packed with it so as to reduce and injuriously affect the quality and strength of said product as a food, and was misbranded within the meaning of section 8 of the act, in that the labels on said sacks showed that the product contained 41 per cent. of protein, 6½ per cent. of nitrogen, and 8 per cent. of ammonia, which statements were deceptive and misleading because, in fact, said product contained only 36.39 per cent. protein, 5.87 per cent. nitrogen, and 7.13 per cent. ammonia. The J. Lindsay Wells Company filed an answer to this libel, in which they admitted the facts alleged therein, and on January 22, 1910, the case having come on for final hearing on libel and answer, the court entered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE UNITED STATES DISTRICT COURT AT KNOXVILLE, TENNESSEE.

THE UNITED STATES
vs.
500 SACKS STOCK FOOD

No. 9.

JUDGMENT.

This case came on to be heard on this 22nd day of January, 1910, before Hon. Edward T. Sanford, United States District Judge, present, James R. Penland, United States attorney, representing the said United States, and Shields, Cates & Mount-

castle, attorneys, representing the J. Lindsay Wells Company, the owner and claimants of the property herein seized; and it appearing that a libel was duly filed by the said United States against Five Hundred (500) Sacks of Stock Food, shipped by J. Lindsay Wells Company, as consignors, from Augusta, Ga., to Hackney, Broyles & Lackey, of Knoxville, in the State of Tennessee, and that under process duly issued in accordance with the prayer of said libel, the said stock food was attached and seized by the United States Marshal of said District, in said City of Knoxville, and is now held by him at this time within the jurisdiction of this court;

And it further appearing that J. Lindsay Wells Company have appeared and answered said libel, and admitted its ownership of said property and setting up claim thereto, and also further admitting that said 500 bags of stock food was misbranded as alleged in said libel, and in this condition shipped from Augusta, Ga., to Knoxville, Tenn.,

It is further ordered, adjudged and decreed that the said 500 sacks of stock food, described in said libel and now in the possession of said United States Marshal, be, and the same is hereby forfeited and confiscated to the said United States for the causes alleged.

But because it appears that said stock food is not deleterious to health, and that it is valuable as a food and may be used as such when properly labeled, and because it further appears from the answer of claimant that it did not misbrand said product, nor have knowledge of the same, but purchased it without knowing of the misbranding, and it is further ordered that upon the payment by J. Lindsay Wells Company of all the costs of this case, and the execution and delivery of a good and solvent bond in the penalty of Sixteen Hundred Dollars (\$1600.00), to be filed with the Clerk of this Court, conditioned that the said 500 sacks of stock food shall not be sold, shipped or otherwise disposed of contrary to the Pure Food & Drugs Act of June 30, 1906, or contrary to the laws of any state, territory, district or insular possession, then the said United States Marshal of this Court is hereby directed to deliver the possession of said 500 sacks of stock food to said J. Lindsay Wells Company, their agents or attorneys, which may be shipped, sold or otherwise disposed of only when labeled or branded as follows:

"Contains 36 39/100 per cent. protein, 5 87/100 per cent. nitrogen, 7 13/100 per cent. ammonia, about 15 per cent. of hulls, carbohydrates 25 per cent., and oil and fat 9 per cent."

But in the event said J. Lindsay Wells Company shall fail to pay said costs, or fail to give the bond as above provided within ten days from this date, then the said Marshal, after first branding or labeling said stock food as above directed, is hereby authorized to advertise the same in some newspaper, published in Knoxville, Tenn., for a period of ten days, and sell the same on the premises where now located in the City of Knoxville, for cash, to the highest and best bidder.

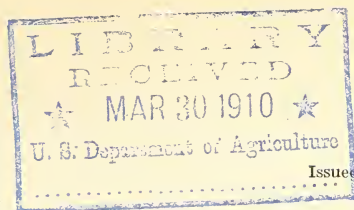
Enter.

SANFORD, J.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*



I. S. No. 20748—a.
F. & D. No. 887.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 231, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF BRAN.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of October, 1909, in the District Court of the United States for the Eastern District of Arkansas, in a prosecution by the United States against the Arkadelphia Milling Company, a corporation of Arkadelphia, Ark., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Arkansas to Louisiana a consignment of bran which was adulterated and misbranded, the said Arkadelphia Milling Company entered a plea of guilty and the court imposed upon it a fine of \$200.

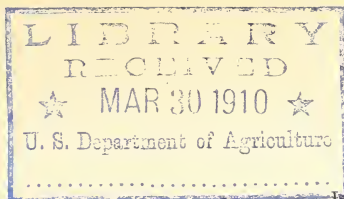
The facts in the case were as follows:

On April 14, 1909, an inspector of the Department of Agriculture purchased from A. Bauer, of Alexandria, La., a sample of a cattle food labeled "Western Bran. Arkadelphia Milling Co. Crude Fat 3.20%, Crude Protein 12%, Fiber 15%, Carbo-Hydrate 50%." The sample was examined in the Bureau of Chemistry of the United States Department of Agriculture and it was found to consist of a mixture of bran and rice hulls. The product was therefore adulterated within the meaning of section 7 of the act in that a substance, namely, rice hulls, had been mixed and packed with it in a way to injuriously affect its quality and strength and was a deleterious ingredient which rendered the article injurious to health, inasmuch as the presence of the said rice hulls in the said bran, if fed in any considerable quantity to cattle, would irritate the gastro-intestinal tract; and was misbranded within the meaning of Section 8 of the act in that it was labeled "Western Bran," which statement was false and misleading because it tended to give the impression that the product was a genuine bran, when, in fact, it was a mixture of bran and rice hulls.

It appearing from the aforesaid examination that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to A. Bauer, the dealer from whom the sample was purchased, and the Arkadelphia Milling Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Arkadelphia Milling Company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid examination, and it being determined that the article was adulterated and misbranded, on September 18, 1909, the said Secretary reported the facts and evidence to the Attorney-General, by whom they were referred to the United States Attorney for the Eastern District of Arkansas, who filed an information against the Arkadelphia Milling Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*



I. S. Nos. 24626-a and 25564-a.
F. & D. Nos. 885 and 928.

Issued March 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 232, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF CIDER VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that in the month of December, 1909, in the District Court of the United States for the Eastern District of Michigan, in prosecutions by the United States against the Oakland Vinegar & Pickle Company, a corporation of Saginaw, Mich., for violations of section 2 of the aforesaid act in shipping and delivering for shipment from Michigan to North Dakota and Indiana, respectively, consignments of adulterated and misbranded cider vinegar, the said Oakland Vinegar & Pickle Company entered a plea of *nolo contendere* in each case and the court imposed upon it fines of \$15 and \$10, respectively.

The facts in the cases were as follows:

On June 11, 1909, and June 17, 1909, inspectors of the Department of Agriculture purchased from Leach & Gamble Company, Wahpeton, N. Dak., and Everett & Hite, Decatur, Ind., samples of food products labeled, respectively: "Mfd for Leach & Gamble Co. Victory Pure Cider Vinegar. Fermented — gals. Wahpeton, N. D." "The cider vinegar in this barrel is superior and guaranteed by the manufacturers to conform to Pure Food Laws of Michigan or any other state where pure food laws are in force and pertaining to Fermented Pure Cider Vinegar. Manufactured by Oakland Vinegar & Pickle Co. Saginaw, Mich." and "Oakland Vinegar and Pickle Company 4% Oakland Brand Apple Cider Vinegar, fermented 48 gal. Saginaw, Mich. Manfd. May 4, 1909." "The cider vinegar in this barrel is superior and guaranteed by the manufacturers to conform in every particular with pure food laws of Michigan or any State where pure food laws are in force and pertaining to fermented pure cider vinegar.

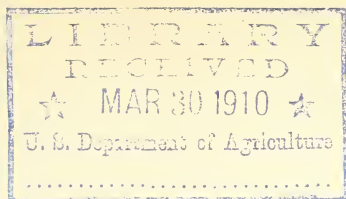
Manufactured by Oakland Vinegar & Pickle Co., Saginaw, Mich." The samples were analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist wholly or in part of a foreign substance high in reducing sugars and dilute acetic acid. From the above analyses it appeared that the articles were adulterated within the meaning of section 7 of the act in that a mixture of dilute acetic acid and a foreign substance high in reducing sugars had been mixed and packed with them so as to reduce and lower and injuriously affect their quality and strength; and were misbranded within the meaning of section 8 of the act in that they were labeled "Victory Pure Cider Vinegar" and "Oakland Brand Apple Cider Vinegar," and contained the statement that the "cider vinegar in this barrel is superior and guaranteed," etc., which statements were false, misleading, and deceptive to the purchaser thereof in that they tended to produce the impression that the products were pure cider vinegar, whereas, in fact, they consisted wholly or in part of a dilute acetic acid, together with a foreign substance high in reducing sugars.

It appearing from the aforesaid analyses that the articles were adulterated and misbranded, the Secretary of Agriculture gave notice to Leach & Gamble Company and Everett & Hite, the dealers from whom the samples were purchased, and also to the Oakland Vinegar & Pickle Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Oakland Vinegar & Pickle Company being the party solely responsible for the adulteration and misbranding of the articles and failing to show any fault or error in the result of the aforesaid analyses, and it being determined that the articles were adulterated and misbranded, on September 18 and September 30, 1909, respectively, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States attorney for the Eastern District of Michigan, who filed informations against the Oakland Vinegar & Pickle Company, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 25, 1910.*





I. S. No. 20125-a.
F. & D. No. 972.

Issued March 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 233, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"ACETON."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 22d day of December, 1909, in the District Court of the United States for the District of Connecticut, in a prosecution by the United States against Horace N. Wheeler, of Mystic, Conn., doing business under the name and style of "The Aceton Medical Company," for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Connecticut to Massachusetts a misbranded drug, known and designated as "Aceton," the said Horace N. Wheeler entered a plea of guilty and the court imposed upon him a fine of \$75.

The facts in the case were as follows:

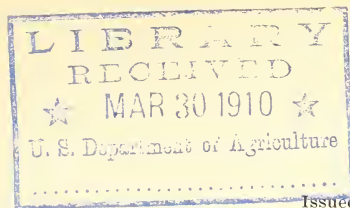
On March 5, 1909, an inspector of the Department of Agriculture purchased from the Eastern Drug Company, Boston, Mass., a sample of a drug labeled: "Aceton. A sure relief for all kinds of headache and neuralgia. Each ounce contains 240 grs. acetanilid. No. 1275. Guaranteed under Pure Food & Drugs Act, June 30, 1906." "Will break up a cold and prevent pneumonia." "Eine sichere Kur für Grippe." "Ist das einzige sichere Mittel gegen Kopfschmerz und Neuralgia." "Remede infallible pour la Grippe." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain acetanilid, caffen, sodium bicarbonate, and other unidentified products. From the above analysis it appeared that the article was misbranded within the meaning of section 8 of the act in that the statements above quoted were false and misleading, because the product was not a

preventive for pneumonia; was not a sure cure nor an infallible remedy for grippe; nor was it a sure cure for headache and neuralgia.

It appearing from the aforesaid analysis that the article was misbranded, the Secretary of Agriculture gave notice to the Eastern Drug Company, the dealer from whom the sample was purchased, and also to The Aceton Medical Company, the manufacturer and shipper, and gave them an opportunity to be heard. Horace N. Wheeler, doing business under the name of The Aceton Medical Company, being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was misbranded, on October 23, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States attorney for the District of Connecticut, who filed an information against Horace N. Wheeler, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



I. S. No. 20291-a.
F. & D. No. 770.

Issued March 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 234, FOOD AND DRUGS ACT.

MISBRANDING OF MOLASSES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 22d day of November, 1909, in the Circuit Court of the United States for the Eastern District of Louisiana, in a prosecution by the United States against the Berry-Maybrun Company, a corporation of New Orleans, La., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Louisiana to California a quantity of misbranded molasses, the said Berry-Maybrun Company entered a plea of guilty and the court imposed upon it a fine of \$10.

The facts in the case were as follows:

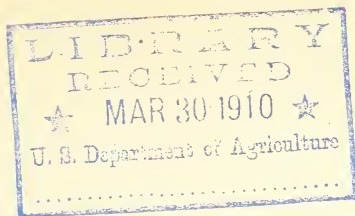
On March 11, 1909, an inspector of the Department of Agriculture purchased from the Stetson-Barrett Company, Los Angeles, Cal., a sample of a food product labeled: "Ginger Cake Brand Molasses from plantation to table. Contains sulphur dioxid. Complies with pure food laws of all states, Serial No. 2174. Packed by Berry, Maybrun Co., New Orleans, Chicago, Ill., 2 lbs." The sample was examined in the Bureau of Chemistry of the United States Department of Agriculture and found to average a shortage of 21.51 per cent per can below the weight declared on the label. It was therefore misbranded within the meaning of section 8 of the act in that it purported to state its contents in terms of weight, which statement was incorrect.

It appearing from the aforesaid examination that the article was misbranded, the Secretary of Agriculture gave notice to the Stetson-Barrett Company, Los Angeles, Cal., the dealers from whom the sample was purchased, and to the Berry-Maybrun Company,

New Orleans, La., the manufacturer and shipper, and gave them an opportunity to be heard. The Berry-Maybrun Company being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid examination, and it being determined that the article was misbranded, on August 12, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Louisiana, who filed an information against the Berry-Maybrun Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., February 28, 1910.



I. S. No. 8091-a.
F. & D. No. 591.

Issued March 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 235, FOOD AND DRUGS ACT.

MISBRANDING OF A SYRUP—"CAFE-COCA COMPOUND."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of November, 1909, in the District Court of the United States for the Northern District of Georgia, in a prosecution by the United States against C. C. Bowden and F. H. Bowden, Athens, Ga., doing business under the name of the Athens Bottling Works, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Georgia to Louisiana a quantity of a syrup known as "Cafe-Coca Compound," the said defendants entered a plea of guilty and the court imposed upon them a fine of \$5.

The facts in the case were as follows:

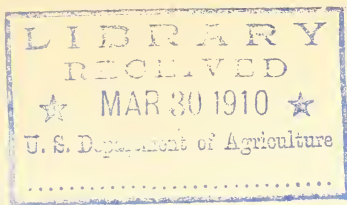
On November 13, 1908, an inspector of the Department of Agriculture purchased from Finlay, Dicks & Company, Ltd., New Orleans, La., a sample of a food product labeled: "Sparkling Delicious CAFE-COCA Compound containing Caffeine Coca Extract and Fourteen Healthful Fruit Oils, Extracts, Etc. Athens Bottling Wks." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain, among other ingredients, cocaine. From the aforesaid analysis it would appear that the article was misbranded within the meaning of section 8 of the act in that the quantity or proportion of cocaine contained therein was not declared on the label as required by the said section.

It appearing from the aforesaid analysis that the article was misbranded, the Secretary of Agriculture gave notice to Finlay, Dicks & Company, Ltd., New Orleans, La., the dealers from whom the

sample was purchased, and also to the Athens Bottling Works, Athens, Ga., the manufacturers and shippers, and gave them an opportunity to be heard. C. C. Bowden and F. H. Bowden, doing business under the name of the Athens Bottling Works, being the parties solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was misbranded, on May 17, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Northern District of Georgia, who filed an information against the above-named defendants, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



Issued March 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 236, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"COKE EXTRACT."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of January, 1910, in the Circuit Court of the United States for the Eastern District of Louisiana, in a prosecution by the United States against A. L. Pillsbury, jr., of New Orleans, La., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Louisiana to Tennessee a misbranded drug, known as "Pillsbury's Coke Extract," the said A. L. Pillsbury, jr., entered a plea of guilty and the court imposed upon him a fine of \$10.

The facts in the case were as follows:

On December 30, 1908, an inspector of the Department of Agriculture purchased from W. N. Wilkerson & Sons, Memphis, Tenn., a sample of a drug labeled:

A. L. PILSBURY, JR.
Pillsbury's
"COKE" EXTRACT
8 oz. F. E. Coca Leaves to each
Gallon of this Extract.
NEW ORLEANS, U. S. A.

The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain, among other ingredients, cocaine. From the aforesaid analysis it would appear that the article was misbranded within the meaning of section 8 of the act in that the label failed to contain a statement of the quantity or proportion of the cocaine contained therein as required by said section.

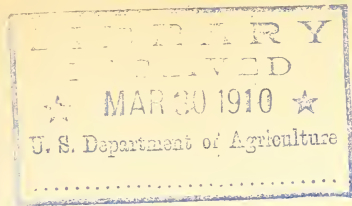
It appearing from the aforesaid analysis that the article was misbranded, the Secretary of Agriculture gave notice to W. N. Wilkerson & Sons, the dealers from whom the sample was purchased, and to A. L. Pillsbury, jr., the manufacturer and shipper, and gave them an

opportunity to be heard., A. L. Pillsbury, jr., being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was misbranded, on June 16, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Louisiana, who filed an information against A. L. Pillsbury, jr., with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*





Issued March 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 237, FOOD AND DRUGS ACT.

MISBRANDING OF LEMON FLAVOR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of December, 1909, in the District Court of the United States for the Southern District of Ohio, in a prosecution by the United States against Frank L. Beggs, of Newark, Ohio, doing business under the firm name of Styron, Beggs & Company, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Ohio to West Virginia a misbranded lemon flavor, the said Frank L. Beggs entered a plea of *nolo contendere* and the court imposed upon him a fine of \$5.

The facts in the case were as follows:

On June 8, 1909, an inspector of the Department of Agriculture purchased from Hagen, Ratcliff & Company, Inc., of Huntington, W. Va., a sample of a food product labeled: "Manhattan Compound Lemon.—Oil Lemon 1.25%. Dilute Alcohol 98.75%. Coloring, Lemon Peel." "Guaranteed by Styron, Beggs & Co., Manufacturing Chemists, Newark, Ohio, Under the Food and Drugs Act, June 30, 1906; U. S. Serial No. 869." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and it was found to contain only a mere trace of oil of lemon. From the aforesaid analysis it appeared that the article was misbranded within the meaning of section 8 of the act in that there appeared upon the label a statement that it contained 1.25 per cent oil of lemon, which statement was false, misleading, and deceptive in that it did not contain 1.25 per cent of oil of lemon, but only a mere trace of the same.

It appearing from the aforesaid analysis that the article was misbranded, the Secretary of Agriculture gave notice to Hagen, Ratcliff & Company, Inc., the dealer from whom the sample was purchased, and also to Styron, Beggs & Company, the manufacturer and shipper, and gave them an opportunity to be heard. Frank L. Beggs, the

sole manager and proprietor, and doing business under the name of Styron, Beggs & Company, being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was misbranded, on September 24, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Southern District of Ohio, who filed an information against Frank L. Beggs, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 238, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF APPLE JELLY.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of November, 1909, in the District Court of the United States for the Eastern District of Michigan, in a prosecution by the United States against the Williams Brothers Company, a corporation of Detroit, Mich., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Michigan to Alabama an adulterated and misbranded apple jelly, the said Williams Brothers Company entered a plea of *nolo contendere* and the court imposed upon it a fine of \$5.

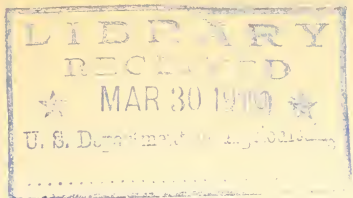
The facts in the case were as follows:

On April 14, 1909, an inspector of the Department of Agriculture purchased from the Winter, Loeb Grocery Company, Montgomery, Ala., a sample of a food product labeled: "Wilco Apple Jelly with Pineapple Contains $\frac{1}{3}$ of 1% Tartaric Acid. Made of Apple Juice and Sugar. The Williams Bros. Co., Detroit, Mich., U. S. A." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain, among other ingredients, glucose. From the aforesaid analysis it would appear that the article was adulterated within the meaning of section 7 of the act in that a certain substance, to wit, glucose, had been substituted in part for the genuine food product; and was misbranded within the meaning of section 8 of the act in that it was labeled "Apple Jelly with Pineapple. Made of Apple Juice and Sugar," which statements were false, misleading, and deceptive, inasmuch as they tended to induce the purchaser to believe he was procuring a product made of apple juice and sugar, whereas, as a matter of fact, the product also contained a foreign substance, namely, glucose.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to the Winter, Loeb Grocery Company, the dealer from whom the sample was purchased, and to the Williams Brothers Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Williams Brothers Company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on September 9, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Michigan, who filed an information against Williams Brothers Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 239, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"BEAVER AND OIL COMPOUND."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 3 Cases of "Dr. Jones' Beaver and Oil Compound," a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 3 cases of beaver and oil compound, lately pending, and finally determined on January 5, 1910, in the District Court of the United States for the Northern District of Georgia by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On March 23, 1909, the United States attorney filed a libel in the District Court of the United States for the Northern District of Georgia praying seizure, condemnation, and forfeiture of the said drug. To this libel no answer was filed, and the case having come on for final hearing on the 5th day of January, 1910, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF
GEORGIA: OCTOBER TERM, 1909.

THE UNITED STATES	}	No. 118. Libel in Rem.
<i>vs.</i>		
THREE CASES DR. JONES BEAVER & OIL COMPOUND,		
Morris Spiegel, <i>complainant</i> .		

DECREE.

The claimant in the above stated case having been duly served, and now, on this day, the cause coming on for hearing, and no answer having been filed, and the allegations contained in the Libel not having been denied nor in any manner controverted, it is ordered and decreed that said Libel be taken *pro confesso* as to said claimant, and it is further considered, ordered, adjudged and decreed by the Court that the drugs described in said Libel be condemned as being misbranded and the United States Marshal for the Northern District of Georgia shall brand said drugs and the bottles

containing the same as follows: "Dr. Jones' Liniment," and that he advertise and sell said goods as provided by law, and out of the proceeds of such sale, pay all costs, expenses and legal charges incident to said seizure, proceedings, and sale in said case, including the costs of storage, and the costs of rebranding, and pay the remainder, if any, into the Treasury of the United States, as provided by law: Provided, however, that the said Morris Spiegel, the intervening claimant herein, upon the payment of all the costs of this Libel, including the costs of seizure, storage, and all the expenses of every nature incurred therein, and upon the execution and delivery of a good and sufficient bond, with approved security, in the sum of Five Hundred Dollars, conditioned that the said Morris Spiegel, claimant as aforesaid, shall label said goods in accordance with the judgment of this Court as hereinbefore directed, and further conditioned that said claimant will not sell or dispose of said goods in violation of the laws of the United States, or the laws of any State, Territory, District or Insular Possession of the United States, then, the said Morris Spiegel, claimant, shall have the right to the possession of said goods now in the possession of the United States Marshal for the Northern District of Georgia and he is hereby directed to deliver to the said Morris Spiegel, claimant, or to the lawful agent of said claimant, the aforesaid goods upon the execution and delivery of the aforesaid bond, and the payment of the aforesaid costs, expenses and charges, within twenty days from the date of this decree.

In open Court this 5th day of January, 1910.

WM. T. NEWMAN,
U. S. Judge.

The facts in the case were as follows:

A sample of a drug labeled and branded: "Dr. Jones Beaver and Oil Compound. For the treatment of rheumatism, neuralgia, sore throat, and quinsy, headache, toothache, backache, bruises, sprains, lameness, chilblains, frostbites. This oil gives strength to weak limbs. Is an almost instant relief and quick healing remedy in bodily pains, and inflammations. Warranted as represented. Dr. M. Spiegel, Manufacturer, Albany, N. Y." had been analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist essentially of a gasoline solution of oleoresin of capsicum, oil of sassafras, and not exceeding one-third of one per cent of non-volatile matter, not animal oil, when an inspector of the said Department found in the possession of L. and J. Spiegel, Atlanta, Ga., 3 cases, each containing 360 bottles, of said drug similarly labeled. The drug had been shipped on March 3, 1909, by Dr. M. Spiegel from Albany, N. Y., to L. and J. Spiegel, Atlanta, Ga. From the aforesaid analysis it appeared that the article was misbranded within the meaning of section 8 of the act in that the statements on the label tended to deceive and mislead the purchaser and cause him to believe the product was a beaver oil compound, whereas it was not a beaver oil compound, nor an animal oil, but a gasoline solution of oleoresin of capsicum, oil of sassafras, and about one-third of one per cent of non-volatile matter, not animal oil.

Accordingly, on March 22, 1909, the Secretary of Agriculture notified the United States attorney for the Northern District of Georgia that the aforesaid 3 cases of said drug were then in the

possession of the above-named parties in Atlanta, Ga., having been shipped as above stated, and that they were misbranded within the meaning of the act. On March 23, 1909, the United States attorney filed a libel in the District Court of the United States for the Northern District of Georgia, with the result hereinbefore stated.

The said claimant, Morris Spiegel, having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 3 cases of beaver and oil compound were redelivered to him.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 240, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

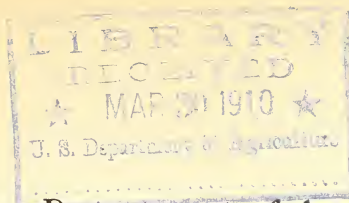
On or about November 18, 1907, November 9 and December 2, 1908, The Price & Lucas Cider & Vinegar Company, Pittsburg, Pa., shipped from Pittsburg, Pa., to East Liverpool, Ohio, Moundsville, W. Va., and New Martinsville, W. Va., respectively, consignments of vinegar. Samples of these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the products were adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded The Price & Lucas Cider & Vinegar Company and the dealers from whom the samples were purchased opportunities to be heard. As it appeared after hearings held that said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence on which to base a prosecution. In due course the United States attorney for the Western District of Pennsylvania filed criminal informations against the said Price & Lucas Cider & Vinegar Company, charging it with the above shipments of products which were adulterated within the meaning of section 7 of the act, in that a substance, to wit, a dilute solution of acetic acid colored with caramel, had been substituted wholly or in part for the genuine food product, and were misbranded within the meaning of section 8 of the act, in that they were labeled so as to represent that the products were apple vinegar and a mixture of vinegars, respectively, whereas, in fact, they were a dilute solution of acetic acid colored with caramel.

On November 13, 1909, the said Price & Lucas Cider & Vinegar Company was found guilty as charged in the aforesaid informations, and the court sentenced it to pay a fine of \$50 for each offense.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



F. & D. No. 45-c.

Issued March 30, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 241, FOOD AND DRUGS ACT.

ADULTERATION OF CREAM.

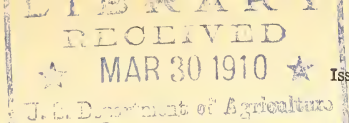
On January 26, 1910, Samuel C. Harley, Manassas, Va., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and the report made indicated that the article was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Samuel C. Harley was given an opportunity to be heard, and it appearing after the hearing held that the above sale was made in violation of said act, the said health officer reported the facts to the United States attorney for the District of Columbia. In due course a criminal information against the said Samuel C. Harley was filed in the Police Court of the District of Columbia, charging the above-named sale and that the product was adulterated in that a valuable constituent, to wit, butter fat, had been abstracted. On February 8, 1910, the said defendant entered a plea of guilty and the court imposed upon him a fine of \$15.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*

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Issued March 30, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 242, FOOD AND DRUGS ACT.

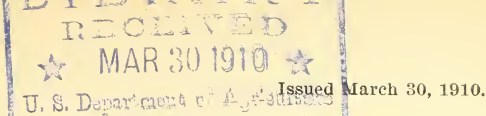
ADULTERATION AND MISBRANDING OF VANILLA EXTRACT.

On or about January 15, 1909, the Blanke-Baer Chemical Co., of St. Louis, Mo., shipped from St. Louis, Mo., to Manitowoc, Wis., a consignment of a food product labeled "Vanilla Extract." Samples of this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Blanke-Baer Chemical Co. and the dealer from whom the sample was purchased opportunities to be heard. As it appeared after hearings held that said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence on which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Eastern District of Missouri against the Blanke-Baer Chemical Co., charging the above shipment and that the product was adulterated within the meaning of section 7 of the act, in that a substance, to wit, vanillin, had been mixed and packed with it so as to injuriously affect its quality and strength, and substituted in part for the genuine food product, and that the product was artificially colored in a manner to conceal its inferiority, and was misbranded within the meaning of section 8 of the act, in that it was labeled "Vanilla Extract. Blanke-Baer Chemical Co., St. Louis, U. S. A.," which statement was false, misleading, and deceptive because the product was not vanilla extract but contained vanillin which had been substituted in part for vanilla extract, and was artificially colored in a manner to conceal its inferiority. On January 20, 1910, the defendant entered a plea of guilty and the court imposed upon it a fine of \$10 on each count, making \$20 in all.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 243, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

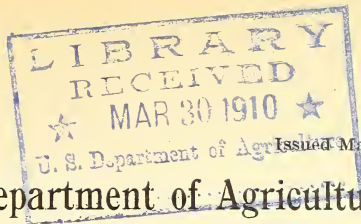
On or about March 26, 1909, the Keller-Lorenz Company, of Spokane, Wash., shipped from Spokane, Wash., to Sand Point, Idaho, a consignment of a food product labeled "Apple Cider Vinegar." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Keller-Lorenz Company and the dealer from whom the sample was purchased opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence on which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Eastern District of Washington, charging that the product was shipped as above stated and was adulterated within the meaning of the act because an imitation cider vinegar composed in part of dilute acetic acid and artificially colored in a manner to conceal its inferiority had been substituted in part for cider vinegar, and misbranded within the meaning of the act, because it was labeled "high grade apple cider vinegar," which statement was false, misleading, and deceptive, because it was not a high-grade apple cider vinegar but an adulterated liquid in imitation of vinegar, consisting in part of dilute acetic acid and artificially colored in a manner to conceal its inferiority. On January 26, 1910, the said defendant entered a plea of guilty and the court imposed upon it a fine of \$25.

This notice is given pursuant to section 4 of the Food and Drugs Act, of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*





Issued March 30, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 244, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF OLIVE OIL.

On or about May 5, 1909, Pasquale de Vivo shipped from New York City to Hoboken, N. J., a consignment of oil labeled as follows: "La Bella di Sorrento Brand Pasquale de Vivo Olive Oil." A sample from the above shipment was procured and analyzed in the Bureau of Chemistry, United States Department of Agriculture. As the findings of the analyst and the report made indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act, the said Pasquale de Vivo and the party from whom the sample was procured were afforded opportunities for hearings, and as it appeared, after hearings held, that the above shipment was made in violation of the aforesaid act, the Secretary of Agriculture reported the facts to the Attorney General, together with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed against the said Pasquale de Vivo in the United States Circuit Court for the Southern District of New York charging that the oil shipped as aforesaid was adulterated because cottonseed oil was substituted in part for the olive oil and because said article was colored with a certain dye whereby its inferiority was concealed, and further charging that the said oil was misbranded because the label upon the can in which it was shipped bore the statement "Olive Oil," which was false and misleading, for the reason that the oil contained in said can was not olive oil, but a mixture of olive and cottonseed oils. The defendant pleaded guilty to the information on January 5, 1910, and the court imposed a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



Issued April 7, 1916.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 245, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF DAMIANA GIN.

On or about November 5, 1908, Henry F. Kaufman shipped from New York City to Baltimore, Md., a quantity of an article labeled "Damiana Gin. A Compound." A sample from the above shipment was procured and analyzed in the Bureau of Chemistry, United States Department of Agriculture. As the finding of the analyst and report made indicated that the article was adulterated and misbranded within the meaning of the Food and Drugs Act, said Henry F. Kaufman, and the party from whom the sample was procured, were afforded opportunities for hearings, and as it appeared after the hearings held that the aforesaid article was shipped in violation of the act, the Secretary of Agriculture reported the fact to the Attorney General, together with a statement of the evidence upon which to base a prosecution.

In due course, a criminal information was filed against the said Henry F. Kaufman in the Circuit Court of the United States for the Southern District of New York.

On January 11, 1910, the defendant pleaded guilty to the charges in said information, that said article was adulterated because it contained added poisonous ingredients—strychnine, brucine, and salicylic acid—which might render it injurious to health; and misbranded because the label thereon bore false and misleading devices indicating that one of the ingredients contained in said article was a substance possessing aphrodisiac qualities, whereas such was not the fact, and because the label thereon represented that damiana was present in said article in a substantial amount, whereas damiana was present in an insignificant amount, and because said label indicated that the article was a gin, whereas it was not a gin. The court imposed upon the defendant a fine of \$100.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 246, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF STRAWBERRY FLAVOR.

On or about June 3, 1909, Warner-Jenkinson Company shipped from St. Louis, Mo., to Memphis, Tenn., a quantity of an article contained in bottles labeled "Strawberry Flavor. Artificial Color. Manufactured by Warner-Jenkinson Company, St. Louis, Mo." Samples from the above shipment were procured and analyzed in the Bureau of Chemistry, United States Department of Agriculture. As the finding of the analyst and report made indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act, said Warner-Jenkinson Company, and the party from whom the samples were procured, were afforded opportunities for hearings, and as it appeared after hearings held that the above shipment was made in violation of the aforesaid act, the Secretary of Agriculture reported the fact to the Attorney General, together with a statement of the evidence upon which to base a prosecution.

In due course, a criminal information against the said Warner-Jenkinson Company was filed in the District Court of the United States for the Eastern District of Missouri, charging that the product aforesaid was adulterated because it was not a strawberry flavor, but an imitation of strawberry flavor made from alcohol, water, ethers, and other chemicals, and that said substances were substituted wholly or in part for strawberry flavor; and further charging that the product, shipped as aforesaid, was misbranded because it was an imitation of strawberry flavor and was offered for sale under the distinctive name of another article, and that the label thereon was such as to mislead and deceive the purchaser.

The defendant on January 26, 1910, pleaded guilty to the above information and the court imposed upon it a fine of \$20 and the cost of prosecution.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 247, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF OLIVE OIL.

On or about June 12, 1909, Maria Cristani, trading under the firm name of Cristani Importing Company, shipped from New York City to Boston, Mass., an article of food contained in a can labeled: "Olio Puro D'Oliva Garantito Torelli Brand Marca Registrata Pure Olive Oil," and on or about May 19, 1909, shipped from New York City to New London, Conn., a certain article of food contained in a can labeled: "Olio D'Oliva Sopraffino Lucca Brand Olive Oil," and on or about June 5, 1909, shipped from New York City to Boston, Mass., a certain article of food contained in a can labeled: "Olio D'Oliva Sopraffino Lucca Brand Olive Oil." Samples from the above shipments were procured and analyzed in the Bureau of Chemistry, United States Department of Agriculture. As the findings of the analyst and reports made indicated that the above articles were adulterated and misbranded within the meaning of the Food and Drugs Act, the said Maria Cristani and the parties from whom the samples were procured were afforded opportunities for hearings, and as it appeared after the hearings held that the above shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, together with statements of the evidence upon which to base prosecutions.

In due course, a criminal information was filed against the said Maria Cristani in the United States Circuit Court for the Southern District of New York, charging that the oil contained in the shipment first hereinbefore mentioned was adulterated in that a large amount of cottonseed oil was substituted in part for olive oil; that said oil was misbranded in that the label was false and misleading because it represented that the article was olive oil, whereas, in fact, it consisted

for the most part of cottonseed oil; and further charging that the oil contained in the second above-mentioned shipment was adulterated in that cottonseed oil was substituted in part for olive oil, and because it was colored with a dye in a manner whereby its inferiority was concealed; and charging further that the oil contained in this shipment was misbranded because the label on the can in which it was shipped bore the following statement regarding its contents, to wit: "Olio D'Oliva Sopraffino Lucca Brand Olive Oil," which statement was false and misleading because it indicated that the oil contained in said can was olive oil, whereas, in truth and in fact, it was not olive oil but a mixture of olive oil and cottonseed oil, artificially colored; and because the statement in the Italian language indicated that the oil was a foreign product, whereas, in truth and in fact, it was not a foreign product. Said information charged further that the oil shipped in the third above-mentioned shipment was adulterated in that cottonseed oil was substituted in part for olive oil, and because it was colored with a dye in a manner whereby its inferiority was concealed; and further, that said oil was misbranded in that the label was false and misleading because it indicated that said product consisted of olive oil, when, in truth and in fact, it consisted of a mixture of olive oil and cottonseed oil, artificially colored, and because said label contained a statement in the Italian language which indicated that said article was a foreign product, when, in truth and in fact, it was not so.

On January 5, 1910, the defendant pleaded guilty to the information and was fined \$100.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 1, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 248, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF TURPENTINE.

On or about February 6, 1909, the Heekin Spice Company, of Cincinnati, Ohio, shipped from Cincinnati, Ohio, to Shelbyville, Ind., a consignment of a drug labeled "Heekin's Turpentine." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Heekin Spice Company and the dealer from whom the sample was purchased opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution.

In due course a criminal information was filed in the District Court of the United States for the Southern District of Ohio, charging that the product was shipped as above stated, and was adulterated in that it was sold under a name recognized in the United States Pharmacopœia and differed from the standard of strength, quality, and purity as determined by the test laid down therein, and was misbranded, in that it was labeled "Heekin's Turpentine," which statement was false and misleading, in that it tended to lead the purchaser to believe that he was procuring an article of the standard strength, whereas, in fact, this product was below the standard as determined by the United States Pharmacopœia. On February 10, 1910, the said defendant entered a plea of guilty and the court imposed a fine of \$5.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 28, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 249, FOOD AND DRUGS ACT.

ADULTERATION OF CONFECTIONERY—SILVER DRAGEES.

On or about March 19, 1908, the French Silver Dragee Company, of New York, N. Y., shipped from New York to California two consignments of confectionery labeled "Silver Dragees." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and the report thereon indicated that the products were adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the French Silver Dragee Company, New York, N. Y., and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence on which to base prosecutions.

In due course a criminal information was filed in the Circuit Court of the United States for the Southern District of New York in substance and in form as follows:

CIRCUIT COURT OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT
OF NEW YORK, IN THE SECOND CIRCUIT.

At a Stated Term of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit, begun and held in the City of New York, within and for the District and Circuit aforesaid, on the second Wednesday of January, in the year of our Lord one thousand nine hundred and nine, and continued by adjournment to and including the — day of March, in the year of our Lord one thousand nine hundred and nine.

Now comes Henry L. Stimson, United States Attorney for the Southern District of New York, who prosecutes herein on behalf of the United States, and for the United States respectfully informs the said United States Circuit Court for the Southern District of New York that French Silver Dragee Co., late of the City and County of New York, heretofore, to wit, on the nineteenth day of March, nineteen hundred and eight, at the Southern District of New York, and within the jurisdiction of this Court, unlawfully did ship and deliver for shipment from the City of New York, State of New York, to the City of San Francisco, State of California, an article of confectionery which at the time and place of said shipment customarily was used and was intended to be used for food by man, and which then and there contained a certain mineral substance, to wit, metallic silver; against the peace of the United States and their dignity, and contrary to the form of the statute of the United States in such case made and provided.

SECOND COUNT.

And said Henry L. Stimson, prosecuting as aforesaid for the United States, further informs said Court that French Silver Dragee Co., heretofore, to wit, on the nineteenth day of March, nineteen hundred and eight at the Southern District of New York, and within the jurisdiction of this Court, unlawfully did ship and deliver for shipment from the City of New York, State of New York, to the City of San Francisco, State of California, a certain article of confectionery described as Boules, which said article was customarily used and was intended to be used for food by man, and which said article of confectionery was adulterated in that it contained a certain mineral substance, to wit, metallic silver; against the peace of the United States and their dignity, and contrary to the form of the statute of the United States in such case made and provided.

HENRY L. STIMSON,
U. S. Attorney.

To this information the defendant, the French Silver Dragee Company, filed its demurrer, and on May 19, 1909, the demurrer came on duly for argument, and was argued, and the court having taken the matter under advisement, overruled the demurrer and filed its opinion therein as follows:

UNITED STATES CIRCUIT COURT, SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA	}
<i>vs.</i>	
FRENCH SILVER DRAGEE COMPANY.	

ON DEMURRER TO INFORMATION.

The brevity of this memorandum does not indicate that in my opinion the question raised by this demurrer is trivial.

On the contrary it is extremely important and presents (I think) a question of first impression under the Pure Food Law which will ultimately require either amendment of the Act or decision of the highest Court.

I incline to the following view:

What is or is not an adulteration in commercial or scientific parlance is wholly unimportant, because Sec. 7 of the Act defines adulteration, and whether such definition squares with the views of the trade or of scientists is no concern of the Courts.

Confectionery is therefore by statute adulterated "if it contains terra alba, barytes, talc (or) chrome yellow." This much is not open to doubt.

Next it seems to me the Court may take judicial notice of the nature of the substances declared adulterants by statute. They are all undoubtedly mineral substances;—they are not all poisonous, though all possess color. Nor can it be said that they all possess flavor in the sense of that word as applied by most people to confectionery.

There being no punctuation between the phrase "or other mineral substances" and the phrase "or poisonous color or flavor," the word "other" must be held to apply to "mineral substance" and "poisonous color or flavor." But the enumeration of terra alba et al gives an illustration (so to speak) of "mineral substances" and of "poisonous color" (i. e. chrome yellow), but so far as I understand the nature of the articles enumerated it does not give an instance of a poisonous *flavor* as distinguished from poisonous color.

Let therefore the rule so insisted upon by the defendant be applied and the Act be limited to mineral substances, poisonous colors and poisonous flavors *ejusdem generis* with the articles enumerated;—and it must then follow that while the proscribed poisonous color or flavor must be a mineral substance, it does not follow that every mineral substance to be proscribed must possess either poisonous color or poisonous flavor.

The Act is undoubtedly obscure in connecting color and flavor with substance, for strictly speaking neither color nor flavor can have *substance*, nor be *mineral*.

I am therefore inclined to think that this statute must be construed as prohibiting the use in confectionery of all mineral substances of the same nature as those enumerated, and of those enumerated some are well known to be merely inert, possessing no poisonous qualities whatever (e. g. terra alba and talc).

The best that can be said of silver is that it is inert, and it is just as much a mineral substance as is terra alba.

With some doubt I overrule the demurrer.

May 19, 1909.

The case having come on for trial on the issues raised by the allegations in the information and the defendant's plea of not guilty, was submitted to a jury on January 13, 1910, and the jury having heard the evidence, argument of counsel, and charge of the court, returned its verdict finding the defendant guilty, and the court imposed a fine of \$100, with a stay of thirty days. The defendant thereupon gave notice of its intention to appeal from the judgment.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., March 4, 1910.



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 250, FOOD AND DRUGS ACT.

MISBRANDING OF GLUTEN FLOUR AND GLUTEN FARINA.

On or about February 14, 1908, the Acme Mills Company, of Portland, Oreg., shipped from Oregon to California a consignment of a food product labeled "Gluten Farina" and on or about November 20, 1908, said company shipped from Oregon to Washington a consignment of a food product known as "Gluten Flour". Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analysts and reports thereon indicated that the products were misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Acme Mills Company and the dealers from whom the samples were purchased opportunities for hearings. As it appeared after the hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence on which to base a prosecution.

In due course criminal informations were filed in the District Court of the United States for the District of Oregon, charging the above shipments, and that the products were misbranded within the meaning of the act, in that they were branded in a manner calculated and intended to represent to intending purchasers that gluten was the principal ingredient and constituent thereof, whereas in truth said food products contained but a very small percentage of nitrogenous matter and did not contain sufficient nitrogenous or glutinous properties to entitle them to the name gluten and did not contain more gluten than is found in ordinary whole wheat flour.

On February 18, 1910, said defendant entered a plea of guilty to each information and the court imposed upon it in each case a fine of \$25.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*

NOTICES OF JUDGMENT.

FOODS.

	N. J. No.		N. J. No.
Almond extract. (<i>See</i> Extract, Almond.)		Cheese :	
Apple cider. (<i>See</i> Cider.)		Baird Bros -----	137
Apple cider vinegar. (<i>See</i> Vinegar.)		Crosby & Meyers -----	137, 138
Apple jelly. (<i>See</i> Jelly, Apple.)		Githens, Rexasmer & Co. -----	154
Apples :		Mustin Robertson Co. -----	138
Bruns Bros. Grocery Co. -----	87	Phenix Cheese Co. -----	154
Elyria Canning Co. -----	64	Cherries :	
Erie Preserving Co. -----	57	Dunkley Co. -----	178
Funsten, R. E., Dried Fruit and		Michigan Vacuum Canning Co. -----	178
Nut Co. -----	161	Ratcliff-Sanders Grocer Co. -----	178
Goddard, Joseph A. -----	64	Spratlen-Anderson Mercantile Co. -----	72
Godfrey, C. H., & Son. -----	36	Woodscross Canning and Pickling	
Hulman & Co. -----	57	Co. -----	72
Kahn, L. -----	89	Cider :	
Silbernagel Co. (Ltd.) -----	89	Gregory, O. L., Vinegar Co. -----	6
Apricots :		Semmes-Kelly Co. -----	1
Armsby, J. K., Co. -----	114	Cider vinegar. (<i>See</i> Vinegar.)	
Cochran Grocery Co. -----	186	Coffee :	
Witwer Bros. Co. -----	92	Canby, Ach & Canby Co. -----	215
Baking powder :		Climax Coffee and Baking Powder	
Consolidated Grocery Co. -----	155	Co. -----	55
Continental Baking Powder Co. -----	155	Dayton Spice Mills Co. -----	49
Beans :		Orr, Jackson & Co. -----	50
Bloomington Canning Co. -----	39	Relly-Taylor Co. -----	177
Dailey, E. G., Co. -----	84	Southern Coffee Mills -----	50
Muskogee Wholesale Grocer Co. -----	93	U. S. Coffee Refining Co. -----	4
Reedsburg Canning Co. -----	93	Condensed milk. (<i>See</i> Milk, Condensed.)	
Beer :		Corn :	
Fallert, Joseph, Brewing Co. -----	51	Atlantic Canning Co. -----	128
Heim Brewing Co. -----	65	Bloomington Canning Co. -----	39
Beverages, Medicated. (<i>See</i> under Drugs		Carthage Cannery -----	95
and medicinal agents.)		Ft. Des Moines Canning Co. -----	52, 53
Blackberries :		Grand Island Canning Co. -----	63
Godfrey, C. H., & Son. -----	36	Gunther, F. T., Grocery Co. (Inc.) -----	95
Ogburn, J. S., & Co. -----	26, 27	Kiesel, Fred J., Co. -----	38
Bran :		McCord-Collins Mercantile Co. -----	52, 53
Arkadelphia Milling Co. -----	231	Otoe Preserving Co. -----	126
Buckwheat flour :		Plummer Mercantile Co. -----	63
Ela Manufacturing Co. -----	118	Smith-Yingling Co. -----	40
Horpel, Louis & Co. -----	60	Corn meal :	
Newmark, M. A. -----	129	Weilder, Sam. W., Co. -----	170
Read, C., & Co. -----	31	Corn sirup. (<i>See</i> Sirup, Corn.)	
Staley, H. B., & Co. -----	124	Cotton-seed meal :	
Butter :		Asheville Grocery Co. -----	179
Elgin Creamery Co. -----	42	Hunter Bros. Milling Co. -----	173
Fox River Butter Co. -----	67	Tennessee Fibre Co. -----	179
Cane sirup. (<i>See</i> Sirup, Cane.)		Wells, J. Lindsay, Co. -----	109
Catsup. (<i>See</i> Tomato ketchup.)		Cream :	
Cereals :		Blough, Elijah E. -----	185
Acme Mills Co. -----	105	Harley, Samuel C. -----	185, 241
New England Food Co. -----	96	Currants :	
(<i>See also</i> Feeds.)		Holzbeierlein, Michael -----	188

	N. J. No.
Custard :	
Horpel, Louis-----	166
Desiccated eggs. (<i>See Eggs, Desiccated.</i>)	
Dragées. (<i>See Silver dragées.</i>)	
Eggs :	
Cohen, Samuel-----	103
Golden & Co-----	22
Rogerson, F., Co-----	7
Spencer & Howes-----	46
Eggs, Desiccated :	
Columbia Desiccated Egg Co-----	227
Holmes & Son-----	227
Eggs, Liquid :	
Brown, Morris-----	224
Sloan, Henry, & Co-----	224
Extract, Almond :	
Midland Grocery Co-----	142
Extract, Lemon :	
Beggs, Frank L-----	237
Burke, Nicholas, Co. (Ltd.)-----	115
Cumberland Manufacturing Co-----	56
Dwight-Edwards Co-----	91
Heekin Spice Co-----	71
Hilbert, A. J., & Co-----	141
Mackie, Albert, Grocer Co-----	130
Mobile Drug Co-----	152
Paddock Coffee and Spice Co-----	136
Spies, Chas., & Co-----	150
Styron, Beggs & Co-----	237
Suffolk Drug and Extract Co-----	147
Thomson & Taylor Spice Co-----	149
Weston, Edward, Tea and Spice Co-----	194
Extract, Pineapple :	
Mobile Drug Co-----	152
Extract, Raspberry :	
Dwight-Edwards Co-----	91
Extract, Strawberry :	
Dwight-Edwards Co-----	91
Howell, H. B., & Co. (Ltd.)-----	143
King Bros., Shilstone & Saint (Ltd.)-----	122, 218
Warner-Jenkinson Co-----	246
Extract, Vanilla :	
Blanke-Baer Chemical Co-----	242
Ennis, Hanly, Blackburn Coffee Co-----	148
Fitch, John H., Co-----	140
Heekin Spice Co-----	48
Interstate Chemical Co-----	139
McCormick & Co-----	135
Monroe Pharmacal Co-----	151
Paddock Coffee and Spice Co-----	123
Steinbock & Patrick-----	14
Woodworth, C. B., Sons Co-----	5
Farina. (<i>See Gluten farina.</i>)	
Feeds :	
Biles, J. W., Co-----	102
Capital Grain and Mill Co-----	66
Daily, E. P-----	119
Dewald, N-----	171
Hellman, Joseph W-----	174
Krause, Charles A., Milling Co-----	172
Lawrence and Hamilton Feed Co. (Ltd.)-----	104

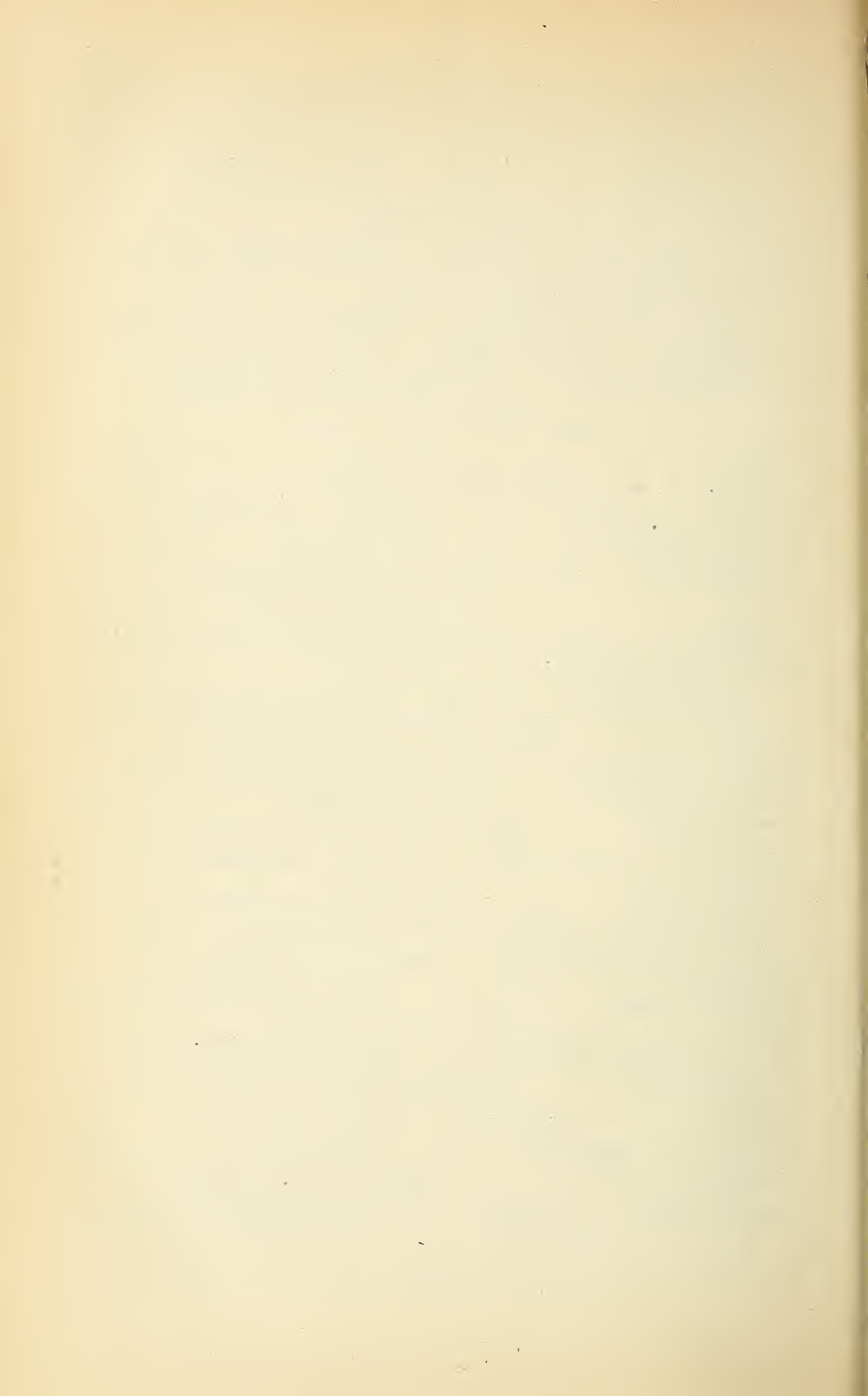
	N. J. No.
Feeds—Continued.	
Michigan Starch Co-----	116, 117
Mueller, E. P-----	174
Quaker Oats Co-----	171
Wells, J. Lindsay, Co-----	230
(<i>See also Bran; Meal; Oats.</i>)	
Flavor. (<i>See Extract.</i>)	
Flour :	
The Birkett Mills-----	3
Brewer, W. C., & Co-----	113
Carter, Seymour-----	12
The Gardner Mill-----	12
Orrville Milling Co-----	13, 17
Riverton Mills Co-----	113
(<i>See also Buckwheat, Gluten, Milk, and Rye flours.</i>)	
Globe flour middlings. (<i>See Feeds.</i>)	
Gluten farina :	
Acme Mills Co-----	250
Gluten flour :	
Acme Mills Co-----	250
Grains. (<i>See Feeds.</i>)	
Honey :	
Rogers Holloway Co-----	18, 19, 20, 21
Ice cream :	
Wallis, Hugh-----	213
Jelly, Apple :	
Williams Bros. Co-----	238
Ketchup. (<i>See Tomato ketchup.</i>)	
Lemon extract. (<i>See Extract, Lemon.</i>)	
Lemon oil :	
Hutchinson, David W-----	196
Liquid eggs. (<i>See Eggs, Liquid.</i>)	
Macaroni :	
Atlantic Macaroni Co-----	167
Ventrone, F. P-----	167
Maple sirup. (<i>See Sirup, Maple.</i>)	
Maple sugar :	
Beeman, J. M., & Son-----	107
Mapleine :	
Crescent Mfg. Co-----	163
Meal :	
Weilder, S. W-----	44
(<i>See also Corn meal; Cotton-seed meal.</i>)	
Milk :	
Allen, John-----	88
Altemus, Frank E-----	88
Berman, Soul-----	88
Boberink, Henry-----	219
Boyle, M-----	132
Corbin, Thomas-----	125
Deterding, C-----	11
Ducker, Henry-----	125
Dunnaway, Owen-----	125
Evers, B., & Sons-----	125
Ficke, W. M-----	125
Geiger, Joseph-----	125
Griebler, Andreas-----	37
Griffith, Howard-----	88
Groger, Henry-----	81
Groger, Theodore-----	125
Harbin, Charles-----	88
Hettenkemer, Philip-----	88

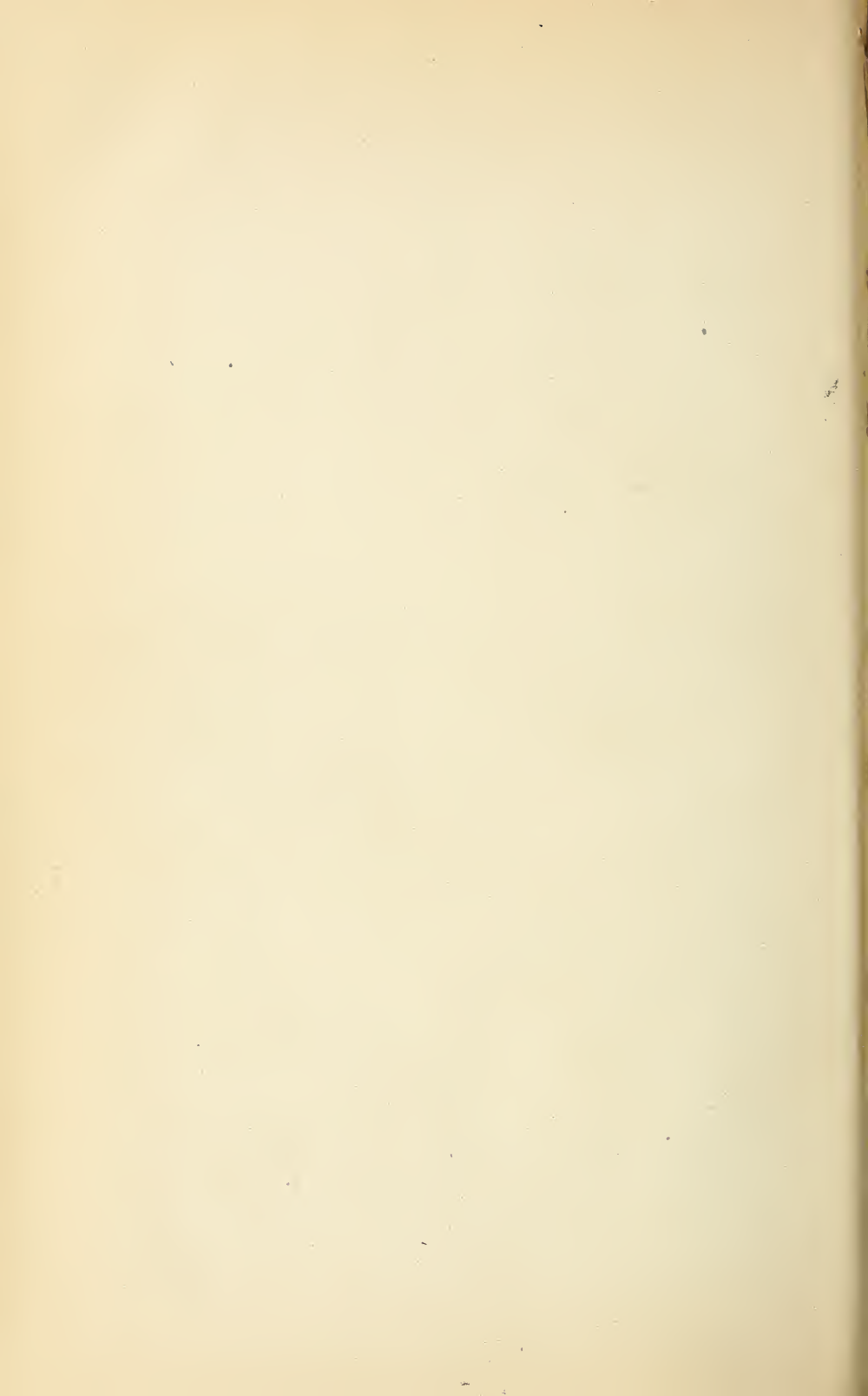
Milk—Continued.	N. J. No.	Peas :	N. J. No.
Hogan, W. F.-----	125	Hohenadel, P., jr., Canning Co.-----	43
Holt, Patrick B.-----	88	Humphreys, J. F., & Co.-----	90
Jarboe, Grover F.-----	88	Reynolds Preserving Co.-----	90
Johnson, W. F.-----	125	Van Camp Packing Co.-----	70, 165
Kanode, Robert E.-----	214	Pepper :	
Kirby, J. C.-----	125	Dean, Harry W.-----	158
Kotzenberg, J. C.-----	132	Hanley & Kinsella Coffee and	
Mace, Frank-----	88	Spice Co.-----	210
Mack, Albert-----	214	Interstate Chemical Co.-----	28
Meiman, John-----	125	Long Bros. Grocery Co.-----	120
Mullins, B. M., & Sons-----	125	Parrish Bros.-----	159
Nostheide, Henry-----	125	Powell-Sanders Co.-----	75
Peoples, Charles, jr.-----	125	Spies, Chas., & Co.-----	164
Perry, W. H.-----	125	Pineapple extract. (See Extract, Pine-	
Poore, Julia-----	88	apple.)	
Reeves, George R.-----	214	Plums :	
Reeves, Willie-----	125	Witwer Bros. Co.-----	92
Robinson, Lyman T.-----	214	Preserves :	
Sanger, William A.-----	88	Numsen, William, & Sons (Inc.)- 108,	
Schackle, Stephen-----	125	212, 222	
Schapiro, Albert-----	88	Raisins, Seedless :	
Siddall, Blanche D.-----	88	Berg, John C.-----	146
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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 251, FOOD AND DRUGS ACT.

MISBRANDING OF CANNED TOMATOES.

On or about October 1, 1909, J. W. Macklin, Willoughby, Md., shipped from Maryland to New York 400 cases, more or less, of canned tomatoes, each can labeled "Monogram Brand Delaware Tomatoes, Strasbauch Silver & Company, Aberdeen, Md., selling agents, Guarantee Legends, serial No. 9977," and each case containing cans marked "Monogram Delaware tomatoes, packed by the Silver Canning Co., Greenwood, Delaware." An examination of the product by the Bureau of Chemistry, United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906, and as it appeared that the shipment therefore was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Southern District of New York.

In due course a libel was filed against the said 400 cases of canned tomatoes, charging that they were misbranded in that they were labeled in a manner to give the impression that they were Delaware tomatoes, whereas in fact they were not Delaware tomatoes but tomatoes grown and packed in Maryland, and praying seizure, condemnation and forfeiture.

On January 4, 1910, there being no claimant of record, the case came on for final hearing, and the court rendered its decree of condemnation and forfeiture in substance and form as follows:

At a Stated Term of the District Court of the United States of America, for the Southern District of New York, held in the United States Court Rooms, in the City of New York, in the said District on the 4th day of January in the year of our Lord one thousand nine hundred and ten.

Present, The Honorable GEORGE B. ADAMS, *U. S. Judge.*

THE UNITED STATES	}
<i>vs.</i>	
FOUR HUNDRED (400) CASES MORE	
or less of Canned Tomatoes.	

The monition issued in this cause, having been heretofore returned, and the usual proclamation having been made, and the default of all persons being

duly entered, it is therefore, on motion of Henry A. Wise, Esq., Attorney for the United States, ordered, sentenced and decreed by the Court, now here, and his Honor the District Judge, by virtue of the power and authority in him vested, doth hereby order, sentence and decree that the goods, wares and merchandise above mentioned be, and the same accordingly are, condemned as forfeited to the United States.

And upon like motion it is further ordered, sentenced and decreed that the Clerk of this Court issue a writ of Venditioni Exponas to the Marshal of the District, returnable on the first Tuesday of February next. And that upon the return thereof he distribute the proceeds according to law. Sale to take place in the United States Court and Post Office Building in the City and County of New York, Borough of Manhattan.

It is provided, however, that upon payment of all costs in the proceedings herein, including the costs of hauling, storage, watchmen, publication, and all costs incidental to or contracted in these proceedings, and the execution and delivery by Seeman Brothers to the libellant of a good and sufficient bond in the penalty of Two hundred and fifty dollars (\$250.) conditioned that the said Four Hundred cases, more or less, of canned Tomatoes, with contents misbranded as alleged in the libel filed in the above entitled action, shall not be sold or otherwise disposed of contrary to the provisions of the said Act of June 30, 1906, the said Marshal shall redeliver the said four hundred cases, more or less, of Canned Tomatoes to the said Seeman Brothers or their agents in lieu of disposing of them by sale as aforesaid; the said bond to be filed herein, if at all, on or before the 10th day of January, 1910.

(Sgd) GEO. B. ADAMS, D. J.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 252, FOOD AND DRUGS ACT.

ADULTERATION OF EVAPORATED EGG.

On or about November 19, 1909, Armour & Company, Washington, D. C., offered for sale in the District of Columbia one barrel of a food product known as evaporated egg. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the product was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

In due course a libel was filed against the said barrel of evaporated egg, charging adulteration of the product within the meaning of the act, in that it was in a filthy, decomposed, and putrid condition and unfit for human consumption, and praying seizure, condemnation, and forfeiture.

On January 10, 1910, no response or answer having been filed to the libel, the case came on for final hearing, and the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA	}	District No. 855.
<i>vs.</i>		
ONE BARREL OF EVAPORATED EGG.		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the nineteenth day of November, A. D. 1909, the Marshal of the United States

for the District of Columbia has seized one barrel of evaporated egg; and it further appearing that the said barrel of evaporated egg was found in the possession of Armour and Company, a body corporate, and that the said Armour and Company was offering the said barrel of evaporated egg for sale in the District of Columbia, and that the said barrel of evaporated egg was transported from the State of Illinois to the District of Columbia, and remained unsold in said District, and that a copy of the writ was duly served upon the said Armour and Company by the said United States Marshal, and a copy of the same duly affixed to the court-house door, and that the time for filing the response and answer to the libel herein has expired, and that no response or answer having been filed to said libel, and no objection being signified to the Court; and it further appearing that the contents of the said barrel of evaporated egg are in a filthy, decomposed and putrid condition, and unfit for human consumption;

It is, by the Court, this — day of January, A. D. 1910;

Adjudged, ordered and decreed, That the contents of the said barrel of evaporated egg in the custody of the United States Marshal are adulterated within the meaning of the Act of Congress approved June 30, 1906.

It is further ordered that the said contents of the said barrel of evaporated egg be, and they are hereby condemned, and shall be destroyed by the said Marshal of the United States, in such manner as provided by the Act of Congress approved June 30, 1906.

It is further ordered that the said Armour and Company pay all the costs of these proceedings.

BY THE COURT.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 253, FOOD AND DRUGS ACT.

ADULTERATION OF SHELLED PEANUTS.

On or about December 13, 1909, the Vegetarian Meat Company, Washington, D. C., offered for sale in the District of Columbia 10 bags of a food product known as shelled peanuts. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the product was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

In due course a libel was filed against the said 10 bags of shelled peanuts, charging adulteration within the meaning of the act because it was in a filthy condition and infested with worms and other animal matter, and unfit for human consumption, and praying seizure, condemnation, and forfeiture.

On January 7, 1910, the defendant filed its plea of guilty and the case coming on for final hearing, the court rendered its decree of condemnation and forfeiture in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA	}	District No. 856.
<i>vs.</i>		
TEN BAGS, MORE OR LESS, OF SHELLED PEANUTS.		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the thirteenth day of December, A. D. 1909, the Marshal of the

United States for the District of Columbia has seized ten bags of shelled peanuts, and it further appearing that the Vegetarian Meat Company has entered its appearance herein as the owner of the said peanuts, and has filed herein its plea consenting to this judgment of condemnation, and no objection being signified to the Court; and it further appearing that all of the said peanuts are in a filthy condition, and are infested with worms and other animal matter, and are so contaminated by the presence of the said worms and other animal matter as to be absolutely unfit for human consumption; and it further appearing that the said peanuts were being offered for sale by the said Vegetarian Meat Company in the District of Columbia at the time of the filing of the libel herein,

It is, this seventh day of January, A. D. 1910,

Adjudged, ordered and decreed, That the said peanuts in the custody of the United States Marshal are adulterated within the meaning of the said Act of Congress, approved June 30, 1906.

It is further ordered that the said peanuts be, and they are hereby condemned, and they shall be disposed of by sale or destruction by the said United States Marshal, under such terms and conditions as will not violate the provisions of the said Act approved June 30, 1906.

It is further ordered that the respondent, the Vegetarian Meat Company, pay all the costs of this proceeding.

It appearing, however, that the said ten bags of peanuts are suitable for food for animals, and that the said Vegetarian Meat Company has made arrangements for the sale of these peanuts for food for chickens to the Old Dominion Poultry Farm, at Claremont, in the State of Virginia.

It is provided further, that upon the said respondent, the Vegetarian Meat Company, paying all the costs of these proceedings, and executing and delivering to the said United States a good and sufficient bond, with surety, to be approved by the Court, in the penal sum of fifty dollars, conditioned that the said ten bags of peanuts shall not be sold or in any manner disposed of contrary to the provisions of the said Act approved June 30, 1906, the said Marshal shall re-deliver and surrender the said ten bags of peanuts to the respondents, the Vegetarian Meat Company, in lieu of their disposition by sale or destruction, as aforesaid.

(Sgd)

WENDELL P. STAFFORD,
Justice.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*

Issued April 7, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 254, FOOD AND DRUGS ACT.

ADULTERATION OF MOLASSES.

On or about January 13, 1910, the Philadelphia Horse & Cattle Molasses Company, Philadelphia, Pa., shipped from the State of Pennsylvania into the District of Columbia 54 barrels of a food product known as molasses. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

In due course a libel was filed against the said 54 barrels of molasses, charging adulteration of the product within the meaning of the act because the said 54 barrels and each of them contained a substance, water, which had been mixed with the contents of the barrel so as to reduce, lower, and injuriously affect the quality and strength of the product, and praying seizure, condemnation, and forfeiture.

On February 25, 1910, the Philadelphia Horse & Cattle Molasses Company filed a plea and answer admitting the charges of the libel, and the case coming on for final hearing, the court rendered its decree of condemnation and forfeiture in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA	}	District No. 860.
<i>vs.</i>		
FIFTY-FOUR BARRELS, MORE OR		
Less, of Molasses.		

DECREE OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the twenty-fifth day of January, A.D., 1910, the Marshal of the United States for the District of Columbia has seized fifty-two barrels of molasses, appraised at one hundred and four dollars (\$104.00) and it further appearing that the Philadelphia Horse

and Cattle Molasses Company, a body corporate, has entered its appearance herein as the owner of said molasses, and has filed herein its plea consenting to the judgment of condemnation, and no objection being signified to the court; and it further appearing that the said fifty-two barrels of molasses, and each of them, contain a substance, that is to say, water, which has been mixed with the molasses contained in said barrels so as to reduce and lower and injuriously affect the quality and strength of the molasses contained in the said barrels and each of them; and it further appearing that the said fifty-two barrels and each of them were transported from the city of Philadelphia, state of Pennsylvania, into the District of Columbia, and so having been transported remain unloaded, unsold and in original unbroken packages in said District;

It is this 25th day of February, A.D., 1910,

Adjudged, ordered and decreed, That the said fifty-two barrels of molasses in the custody of the United States Marshal are adulterated within the meaning of the said Act of Congress approved June thirtieth, A.D. 1906, and the said fifty-two barrels of molasses and each of them are hereby condemned, and they shall be disposed of by sale by the said United States Marshal under such terms and conditions as will not violate the provisions of the said Act of Congress approved June thirtieth, A.D. 1906.

It is further ordered, That the respondent, the Philadelphia Horse and Cattle Molasses Company, a body corporate, pay all the costs of these proceedings.

It appearing that the contents of the said fifty-two barrels of molasses are suitable as a food for cattle, it is provided, however, that upon the respondent, the Philadelphia Horse and Cattle Molasses Company, a body corporate, paying all the costs of these proceedings, and executing and delivering to the said United States a good and sufficient bond with surety to be approved by the Court, in the penal sum of two hundred dollars, conditioned that none of the said fifty-two barrels of molasses shall be sold or in any manner whatever disposed of contrary to the provisions of the said Act approved June thirtieth, A. D. 1906, and the said Philadelphia Horse and Cattle Molasses Company having agreed to label the said barrels in a manner to be approved by the said Attorney of the United States, the said Marshal shall re-deliver and surrender the said fifty-two barrels of molasses to the respondent, the Philadelphia Horse and Cattle Molasses Company, in lieu of the disposition by sale as aforesaid.

By the Court.

WENDELL P. STAFFORD,
Justice.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGEMENT NO. 255, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF EVAPORATED APPLES.

Sixty cases, more or less, of a food product labeled "Choice Evaporated Apples," were discovered by an inspector of the Bureau of Chemistry, United States Department of Agriculture, in the possession of the Pennsylvania Railroad Company. An analysis of samples of this product was made in the Bureau of Chemistry, United States Department of Agriculture, and it was shown to be adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

In due course a libel was filed against the said 60 cases of choice evaporated apples, charging adulteration of the product within the meaning of the act, in that the said cases of apples, and each of them, were composed in part of filthy and decomposed vegetable substance and were misbranded within the meaning of the act, in that they were labeled "Choice Evaporated Apples, 50 lbs., Michael Doyle & Co., Rochester, N. Y.," which statements were false, misleading, and deceptive, in that the product was not composed of choice evaporated apples, but was in part a filthy and decomposed vegetable substance, and that they had been shipped by Michael Doyle & Co., Rochester, N. Y., from New York to the District of Columbia, and praying seizure, condemnation and forfeiture.

On January 11, 1910, W. Clarence Miller, of the firm of Miller, Claggett & Company, entered an appearance and filed a plea of *nolo contendere*, and the case coming on for final hearing, the court rendered its decree of condemnation and forfeiture in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA	}	District No. 858.
<i>vs.</i>		
SIXTY CASES, MORE OR LESS, OF		
"Choice Evaporated Apples."		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the fifteenth day of December, A. D. 1909, the Marshal of the United States for the

District of Columbia has seized sixty cases of "Choice Evaporated Apples," valued at fifty dollars, and it further appearing that W. Clarence Miller, of the firm of Miller, Claggett and Company, a partnership, has entered his appearance herein as owner of the said cases of evaporated apples, and has filed herein his plea of *nolo contendere* that he will not contend with the United States in this cause, and no objection being signified to the Court; and it further appearing that each and every case thereof is labeled: "Choice Evaporated Apples, 50 lbs., Michael Doyle & Co., Rochester, N. Y.," and that these statements are exaggerated, false and misleading in this, that each case contains apples which are of poor quality and which are not choice evaporated apples; and it further appearing that the said cases of evaporated apples and each of them have been transported from the state of New York into the District of Columbia, and remain in original unbroken packages in said District, and that the said cases, and each of them, were consigned by Michael Doyle and Company, from Rochester, in the State of New York, to Miller, Claggett and Company, in the city of Washington, District of Columbia;

It is, this eleventh day of January, A. D. 1910, .

Adjudged, ordered and decreed: That the said sixty cases of evaporated apples in the custody of the said Marshal of the United States are misbranded within the meaning of the Act of Congress approved June 30, A. D. 1906, and that the statements made upon the labels regarding the ingredients and substances contained therein are exaggerated, false and misleading, as herein recited.

And it is further ordered: That the said sixty cases of evaporated apples be and they are hereby condemned, and they shall be disposed of by sale by the said United States Marshal under such terms and conditions as will not violate the conditions of the said Act of Congress approved June 30, A. D. 1906.

And it is further ordered: That the respondent, W. Clarence Miller, pay all the costs of these proceedings.

It is provided, however, that upon the said respondent, W. Clarence Miller, paying all the costs of these proceedings, and executing and delivering to the said United States a good and sufficient bond, with surety, to be approved by the Court, in the penal sum of one hundred dollars, conditioned that the said sixty cases of evaporated apples shall not be sold or in any manner whatever disposed of contrary to the provisions of the said Act of Congress approved June 30, A. D. 1906, the said Marshal of the United States shall redeliver and surrender the said sixty cases of evaporated apples to the respondent, W. Clarence Miller, in lieu of the disposition by sale as aforesaid.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 256, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF STOCK FOOD.

Sixty barrels of a stock food labeled "Molasses Grains," were discovered by an inspector of the Bureau of Chemistry, United States Department of Agriculture, in the possession of the Potomac & Chesapeake Steamboat Company. An analysis of samples of this product was made in the Bureau of Chemistry, United States Department of Agriculture, and it was shown to be adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

In due course a libel was filed against the said 60 bags of molasses grains stock food, charging adulteration of the product within the meaning of the act, in that a large proportion of rice hulls had been mixed and packed with the product so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for the genuine food product, and charging misbranding of the product within the meaning of the act, in that it was labeled "Molasses Grains," "125 lbs. Analysis; Molasses 40 to 50%, protein 1%, fat 1%, fibre not exceeding 25%. Ingredients: cottonseed meal, molasses, oats and barley clippings and screenings, and sprouts. Manufactured by E. P. Mueller, Norfolk, Va.," which statements were false, misleading and deceptive, in that the product was not composed of the ingredients named in the label, but consisted in part of a large proportion of rice hulls, and did not contain oats or barley clippings or screenings and sprouts, and only contained a small amount of rice starch and a bare trace of cottonseed and

alfalfa, and that they had been shipped by E. P. Mueller, Norfolk, Va., from Virginia to the District of Columbia, and praying seizure, condemnation, and forfeiture.

On January 21, 1910, Herbert P. Pillsbury entered an appearance and filed a plea of *nolo contendere*, and the case coming on for final hearing, the court rendered its decree of condemnation and forfeiture in substance and form as follows:

In the Supreme Court of the District of Columbia holding a District Court.

UNITED STATES OF AMERICA	}	District No. 859.
vs.		
SIXTY BAGS, MORE OR LESS,		
of Molasses Grains Stock Food.		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on January 15th, A. D. 1910, the Marshal of the United States for the District of Columbia has seized twenty-nine bags of Molasses Grains Stock Food; and it further appearing to the Court that Herbert P. Pillsbury has entered his appearance herein as owner of the said bags of stock food, and has filed herein his plea of *nolo contendere* that he will not contend with the United States in this cause, and no objection being signified to the Court; and it further appearing that each and every bag of the said stock food bears a label stating: "125 lbs. Molasses Grains. Analysis: Molasses 40 to 50%, protein 1%, fat 1%, fibre not exceeding 25%. Ingredients: cottonseed meal, molasses, oats and barley clippings and screenings and sprouts. Manufactured by E. P. Mueller, Norfolk, Va.," and that these statements are exaggerated, false and misleading in this, that none of the bags of said stock food contain oats or barley clippings, nor do they contain screenings or sprouts, and further in this, that each of said bags contain only a small amount of rice starch and a bare trace of cottonseed and alfalfa, and further in this, that such label bears the brand: "Molasses Grains," and the said bags and each of them contain no whole grain, but only the by-product from rice, and further in this, that the bags and each of them contain a product not named in the label, that is to say, each bag contains tissues consisting in a large measure of rice hulls, and the said bags are misbranded within the meaning of the Act of Congress approved June thirtieth, A. D. 1906; and it further appearing to the Court that each and every bag of the said stock food is adulterated in that the said bags of stock food contain a substance which has been mixed and packed with the contents of said bags so as to reduce and lower and injuriously affect the quality and strength of the contents of said bags and each of them, that is to say, rice hulls, has been substituted in part for the cottonseed meal and oats and barley clippings and screenings and sprouts in said food, and further in this, that the bags and each of them contain an ingredient not stated upon said label, that is to say, rice hulls, which said rice hulls are deleterious and such as to render the food product injurious to the health of animals and stock, all in violation of the said Act of Congress approved June thirtieth, A. D. 1906; and it further appearing that the said bags of stock food and each of them have been transported from the city of

Norfolk, state of Virginia, to the District of Columbia, and remain unsold in said District, and are offered for sale in said District;

It is this 21st day of January, A. D. 1910,

Adjudged, ordered and decreed: That the said twenty-nine bags of Molasses Grains Stock Food in the custody of the United States Marshal for the District of Columbia, are misbranded and adulterated, within the meaning of the said Act of Congress approved June thirtieth, A. D. 1906; and that the statements made upon the labels regarding the ingredients and substances contained therein are exaggerated, false and misleading as herein recited, and the substances contained in said bags and each of them are adulterated as herein further recited.

It is further ordered: That the said twenty-nine bags of Molasses Grains Stock Food be and they are hereby condemned and they shall be disposed of by destruction by the said United States Marshal under such terms and conditions as will not violate the provisions of the said Act of Congress approved June thirtieth, A. D. 1906.

It is further ordered: That the respondent, Herbert P. Pillsbury, pay all the costs of these proceedings.

By the Court.

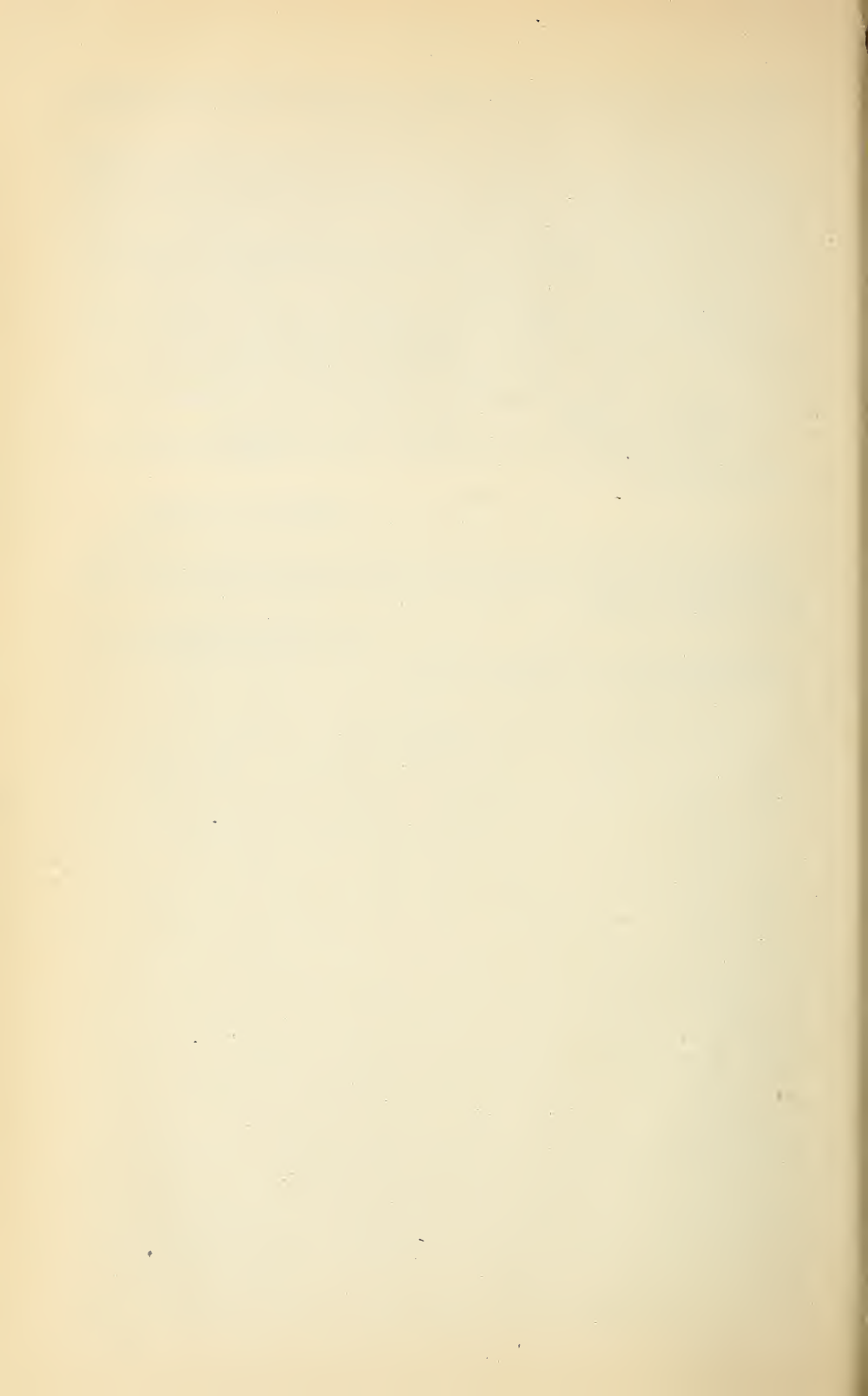
WENDELL P. STAFFORD,
Justice.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*





United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT No. 257, FOOD AND DRUGS ACT.

ADULTERATION OF HERRING.

On or about December 15, 1909, J. H. Crilly, Alexandria, Va., shipped from the State of Virginia to the District of Columbia 55 barrels of herring. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

In due course a libel was filed against the said 55 barrels of herring, charging adulteration within the meaning of the act, in that they were in a filthy, putrid condition, infested with maggots, and wholly unfit for human consumption.

No response or answer having been filed to the libel and the case coming on for final hearing on January 11, 1910, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA	}	District No. 857.
<i>vs.</i>		
FIFTY-FIVE BARRELS OF HERRING.		

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the fifteenth day of December, A. D. 1909, the Marshal of the United States for the District of Columbia has seized fifty-five barrels of herring, and it further appearing that the said barrels of herring were found in the possession of The J. A. Whitfield Company, a body corporate, and that the said J. A. Whitfield

Company was offering the said barrels of herring and each of them for sale in the District of Columbia, and that the said barrels of herring were transported from the state of Virginia to the District of Columbia, and remained unsold in said District in original unbroken packages, and that a copy of the writ was duly served upon The J. A. Whitfield Company by the said Marshal of the United States and a copy of the same duly affixed to the Court-house door, and that the time for filing the response or answer having expired, and that no response or answer having been filed to said libel, and no objection being signified to the Court; and it further appearing that the contents of the said barrels of herring and each of them are in a filthy and putrid condition and infested with maggots, and wholly unfit for human consumption;

It is by the Court, this eleventh day of January, A. D. 1910,

Adjudged, ordered and decreed: That the contents of the said fifty-five barrels of herring in the custody of the said Marshal of the United States are adulterated within the meaning of the Act of Congress approved June 30, A. D. 1906.

It is further ordered: That the said contents of the said barrels of herring and each of them be and they are hereby condemned, and shall be destroyed by the said Marshal of the United States in such manner as provided by the said Act of Congress approved June 30, A. D. 1906.

It is further ordered: That the said J. A. Whitfield Company pay all the costs of these proceedings.

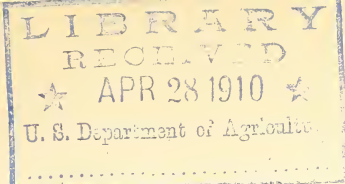
By the Court.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 8, 1910.*





United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 258, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—PRESTON'S HED-AKE. (TRADE-MARK.)

On or about April 14, 1909, The Parker-Blake Company, Ltd., New Orleans, La., shipped from New Orleans, La., to St. Louis, Mo., a consignment of a drug labeled "Preston's Hed-Ake (Trade Mark)." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded The Parker-Blake Company, Ltd., and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution. In due course, a criminal information was filed in the United States Circuit Court for the Eastern District of Louisiana charging the above shipment and that the product was misbranded within the meaning of the act, in that the label bore the following statements: "It cures while you wait" "Will prevent headache" "A remedy for any kind of headache;" which statements were false and misleading, in that the product is not a cure for headache, nor is it a remedy for any kind of headache; and is further misbranded, in that the label contained a statement concerning said drug that it is "Perfectly Harmless," which statement was false and misleading, in that the drug contained acetanilid, which rendered it harmful.

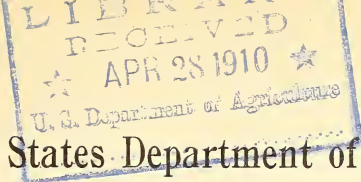
On February 16, 1910, the said defendant entered a plea of guilty, and the court imposed upon it a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 15, 1910.*





Issued April 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 259, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMON EXTRACT.

On or about July 14, 1908, The J. S. Campbell Company, of Ogden, Utah, shipped from Ogden, Utah, to Preston, Idaho, a consignment of a food product labeled: "Lemon Flavoring Contains approximately 2% Oil of Lemon Coloring tumeric For flavoring Ice Cream, Custards and Pastry Prepared by William Driver & Son Drug Co., Ogden, Utah." Samples from this shipment were procured and analyzed in the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded The J. S. Campbell Company, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the District of Utah charging the above shipment and that the product was adulterated because a highly dilute terpeneless lemon extract, artificially colored with coal tar dye in a manner to conceal its inferiority, had been substituted in whole or in part for the genuine article; and was misbranded in that it was labeled "Lemon Flavoring Contains approximately 2% Oil of Lemon Coloring tumeric," whereas, in fact, it contained no oil of lemon nor tumeric, but a highly dilute terpeneless lemon extract, artificially colored with a coal tar dye.

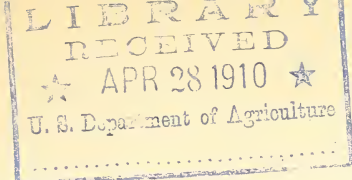
On February 7, 1910, said defendant entered a plea of guilty, and the court imposed upon it a fine of \$20.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 15, 1910.*

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Issued April 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 260, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—U-RE-KA HEADACHE POWDERS.

On or about February 4, 1909, Joseph Perlitch, doing business under the firm name of The Perlitch Pharmacy, Joseph Perlitch, Mgr., of Brooklyn, N. Y., shipped from the State of New York to the State of Michigan a consignment of a drug labeled: "U-RE-KA Headache Powders * * * Prepared at Perlitch's Prescription Pharmacy, 689 DeKalb Ave., cor. March, Brooklyn, N. Y." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded The Perlitch Pharmacy, and the dealer from whom the sample was purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed in the Circuit Court of the United States for the Eastern District of New York, charging the above shipment, and that the product was misbranded within the meaning of the act, in that the wrapper and package of the said headache powders failed to bear a statement on the label of the quantity and proportion of the acetanilid or any derivative or preparation of said acetanilid contained therein.

On February 14, 1910, the defendant entered a plea of not guilty, which plea was withdrawn on March 2, 1910, and a plea of guilty entered, and the court imposed upon him a fine of \$25.

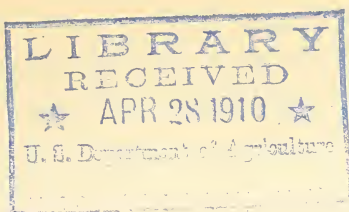
This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 15, 1910.*



F. & D. No. 1103.
I. S. No. 25019-a.



Issued April 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 261, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"SURE THING TONIC."

On or about June 3, 1909, Joseph C. Furst and Samuel Furst, trading as Furst Brothers, of Cincinnati, Ohio, sold and delivered to the Stein-Gray Drug Company, three bottles of a certain drug labeled:

On the front thereof—

"Sure Thing Tonic. The Wonder Stimulant. Restores Nerve Energy. Renews Vital Force. Alcoholic Strength 50 Proof. Invigorator and Exhilarant. Guaranteed to conform with the National Pure Food Laws. Guaranty Serial No. 12141. Furst Bros., Cincinnati, Ohio."

And on the back thereof—

"REMARKS. '*Sure Thing Tonic*' is distilled by Modern Methods evolved from half a century of practical experience. It is made so carefully that every bottle is put up as if it were an individual prescription. Our Laboratory is open for inspection to any Physician, Druggist or Pharmacist. '*Sure Thing Tonic*' is an exhilarant. It relieves depression, stimulates the entire system, and will assist Nature to renew Vital Force and Nerve Energy. You cannot afford to be without it. '*Sure Thing Tonic*' should be taken by every person, male or female, whether in need or not of a Tonic of its kind. '*An Ounce of Prevention is worth a Pound of Cure.*' DIRECTIONS: Take a wine glass full three times a day, positively before retiring. You can double the dose if you so desire. If your dealer does not handle it, write to us.

"FURST BROS., Cincinnati, Ohio."

Thereafter the above-named purchaser shipped said drug in interstate commerce to Covington, Ky. A sample procured from this shipment was analyzed in the Bureau of Chemistry, United States Department of Agriculture. As it appeared from the findings of the analyst and report made that the drug was misbranded within the meaning of the Food and Drugs Act, the Secretary of Agriculture afforded opportunities for hearings to the party from whom said sample was procured, to the shipper, and to the guarantor of said

drug, and as it appeared after hearings held that there had been a violation of the act on the part of the above-named guarantors, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Southern District of Ohio against the said Joseph C. Furst and the said Samuel Furst, alleging that said drug was misbranded, because the labels on the bottles containing the same bore statements, designs, and devices regarding said article, and the ingredients and substances therein contained, which were false and misleading in the following particulars:

First, that said article contained the following ingredients: Alcohol, sucrose, and water, flavored with juniper, none of which ingredients justified the use on said label of these statements, to wit: "Sure Thing Tonic. Wonder Stimulant. Restores Nerve Energy. Renews Vital Force. Relieves Depression, Stimulates the Entire System;"

Second, that the statement on the label that "Sure Thing Tonic, distilled by modern methods evolved from a half century of practical experience," was false and misleading because said drug was not a distilled product;

Third, that the bottle containing said drug failed to bear upon the label thereof a statement of the quantity or proportion of alcohol contained in said article.

The information further charged that said defendants at the time of making sale and delivery of said drug to the purchasers thereof knew that said article was intended to be sold in interstate traffic and was likely to be sold in interstate traffic, and that in fact it was on the same day shipped by said purchaser in interstate traffic to Covington, Ky., and that by reason of the fact that said drug was misbranded, as aforesaid, the interstate shipment thereof was unlawfully made; that by reason of the guaranties given by the said defendants they were amenable to the prosecution, fines, and other penalties which would attach because of said unlawful interstate shipment.

On March 1, 1910, the defendants pleaded guilty to the information and were sentenced by the court to pay a fine of \$10 and costs.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 23, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 262, FOOD AND DRUGS ACT.

MISBRANDING OF MACARONI.

On or about December 16, 1909, February 10, 1910, and January 21, 1910, V. Viviano and Brothers, of St. Louis, Mo., shipped from the State of Missouri into the State of Illinois consignments consisting of 1,850 boxes, 1,950 boxes, and 1,700 boxes of macaroni, respectively. Examination of samples of these shipments made in the Bureau of Chemistry, United States Department of Agriculture, showed them to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analysts and reports made that the shipments were liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States Attorney for the Northern District of Illinois.

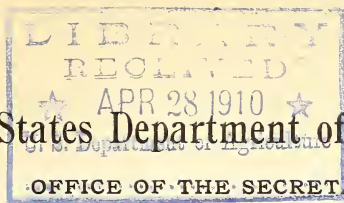
In due course libels were filed against the said 1,850 boxes, 1,950 boxes, and 1,700 boxes of macaroni, respectively, charging the above shipments, and that the product was misbranded, in that each package was labeled "La Regina V B Artificial Coloring Spaghetti Marca di Frabbrica Register Trade Marke", together with pictorial representations and designs, which tended to give the impression that the product was manufactured and prepared for shipment in a foreign country, to wit, Italy, whereas, in fact, it was not a foreign product but manufactured in St. Louis, Mo., and praying seizure, condemnation, and forfeiture.

On February 14, February 17, and February 23, 1910, respectively, these cases came on for final hearings and in each case the court rendered its decree of condemnation and forfeiture adjudging that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, and declaring it to be forfeited and confiscated to the United States and ordering its release to the claimant on payment of costs and filing of the bond with the approval of the court conditioned upon the product not being disposed of in violation of the Food and Drugs Act of June 30, 1906, or the laws of any State, Territory, or insular possession of the United States.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 18, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 263, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF BUCKWHEAT FLOUR.

On or about January 16, 1908, William H. Harrison, doing business under the name of W. H. Harrison & Company, of Cincinnati, Ohio, shipped from Cincinnati, Ohio, to Bedford, Ind., a consignment of a food product labeled "Harrison's Prepared Self-Raising Buckwheat Flour. W. H. Harrison & Co., 15-17-19 E. Second Street, Cincinnati, O." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded W. H. Harrison & Company, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution.

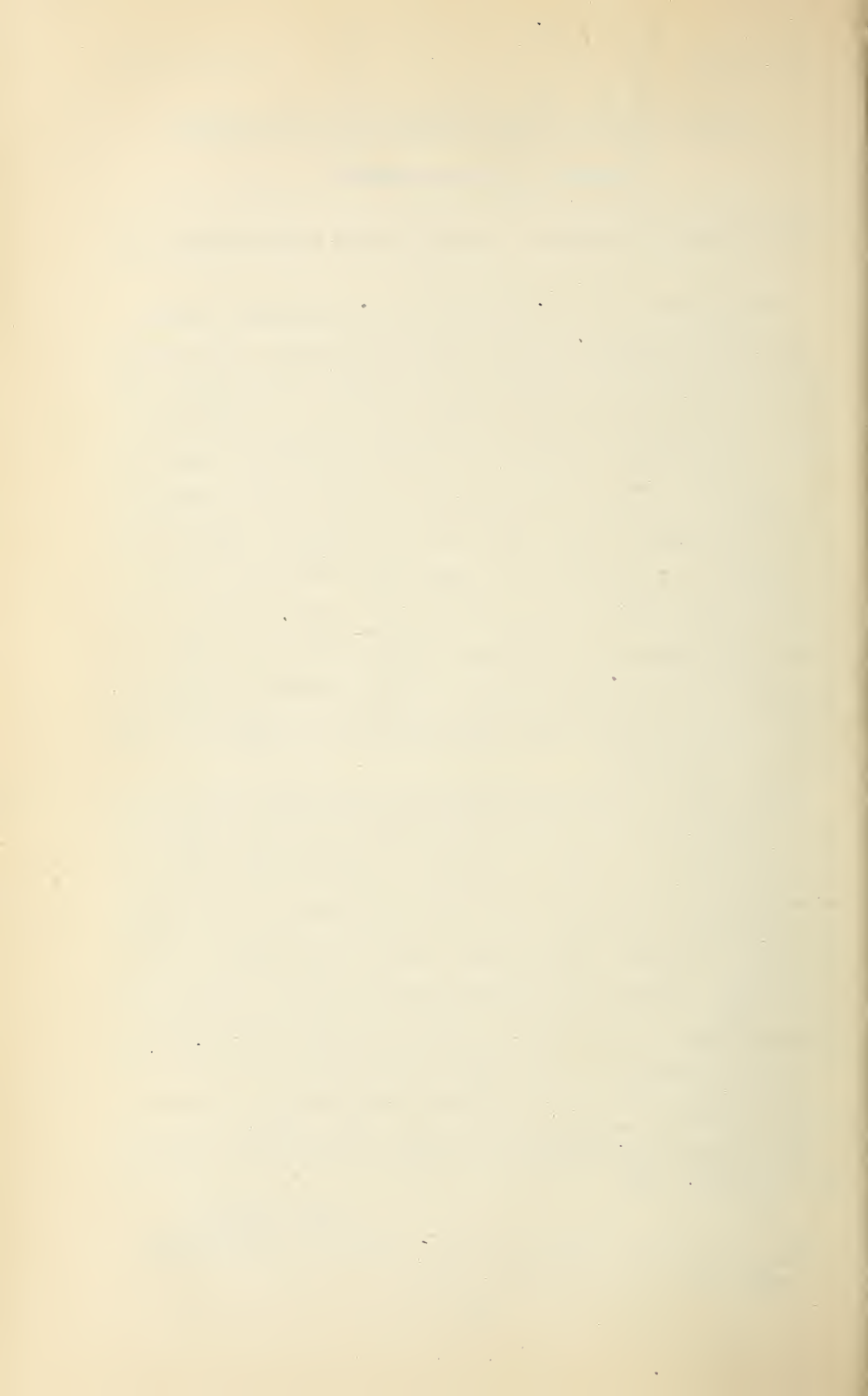
In due course a criminal information was filed in the District Court of the United States for the Southern District of Ohio, charging the above shipment, and that the product was adulterated within the meaning of the act, in that a substance, graham flour, was substituted in part for the genuine food product, and further, in that graham flour had been mixed and packed with the said article so as to reduce and lower its quality and strength, and was misbranded, in that it was labeled "Prepared Self-Raising Buckwheat Flour," which statement would give the impression that the article was composed of buckwheat flour and leavening material, whereas, in fact it was composed of buckwheat flour and other wheat products.

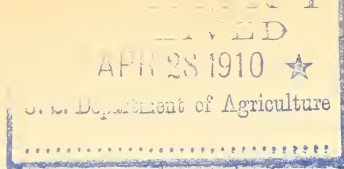
On March 3, 1910, the said defendant entered a plea of nolo contendere, and the court imposed upon him a fine of \$5.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 18, 1910.*





F. and D. No. 48-C.

Issued April 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 264, FOOD AND DRUGS ACT.

ADULTERATION OF CREAM.

On or about February 4, 1910, Arthur Swart, of Ashburn, Va., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the cream was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Arthur Swart was afforded an opportunity for hearing, and as it appeared after the hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

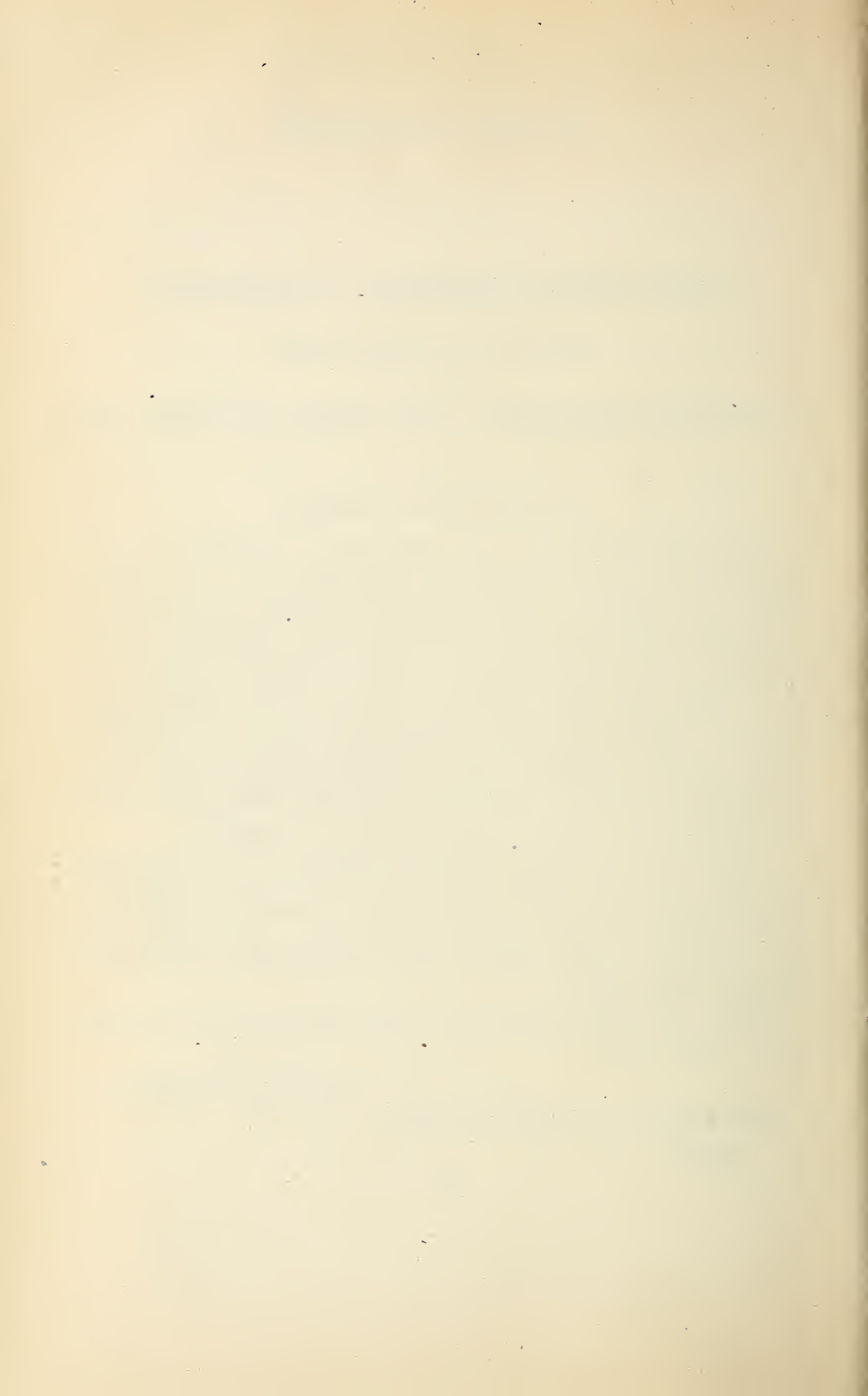
In due course a criminal information against the said Arthur Swart was filed in the Police Court of the District of Columbia, charging that the said cream was adulterated, in that a valuable constituent had been partially or wholly abstracted therefrom. On March 9, 1910, the defendant pleaded guilty to the information, and the court imposed a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 18, 1910.*

36080—10





F. & D. No. 49-C.

Issued April 28, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 265, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

On or about February 12, 1910, Washington B. Chichester, of Derwood, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Washington B. Chichester was afforded an opportunity for hearing, and as it appeared after the hearing was held that the sale was in violation of the said act, the said health officer reported the facts to the United States attorney for the District of Columbia.

In due course a criminal information was filed against the said Washington B. Chichester in the Police Court of the District of Columbia, charging that the milk was adulterated, in that a substance, water, had been mixed with it so as to reduce and lower its quality. On March 9, 1910, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$10.

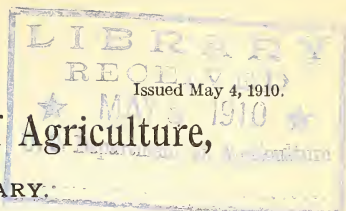
This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 18, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 266, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"DR. JOHNSON'S MILD COMBINATION TREATMENT FOR CANCER."

On or about the thirteenth day of May, 1908, O. A. Johnson, doing business under the name of The Dr. Johnson Remedy Company, sold and shipped from Kansas City, Mo., to Washington, D. C., one package of "Cancerine Tablets," two packages of "Antiseptic Tablets," two packages or bottles of "Blood Purifier," one package or bottle of "Special No. 4," one package of "Cancerine No. 17," one package "Cancerine No. 1," all of which packages formed and constituted what was termed in substance "Dr. Johnson's mild combination treatment for Cancer." Samples from the above packages were procured and analyzed in the Bureau of Chemistry of the United States Department of Agriculture. The finding of the analyst and the report made indicated that the articles were misbranded within the meaning of the Food and Drugs Act. Said O. A. Johnson was afforded an opportunity for hearing and as it appeared after a hearing held that the above shipment was made in violation of the aforesaid act, the Secretary of Agriculture reported the facts to the Attorney-General, together with a statement of the evidence upon which to base a prosecution. In due course, after the above facts and evidence had been submitted by the United States Attorney for the Western District of Missouri to the Grand Jury sitting for said district, the following indictment was returned against the above named shipper:

UNITED STATES OF AMERICA,
Western Division, Western District of Missouri.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION OF THE
WESTERN DISTRICT OF MISSOURI.

The Grand Jurors of the United States of America, duly chosen, selected, empaneled, sworn and charged to inquire of and concerning crimes and offenses in the Western Division of the Western District of Missouri, upon their oaths present and charge: That on or about the 13th day of May, A. D. 1908, at Kansas City, Jackson County, Missouri, in said Division and District, one O. A. Johnson, whose christian name is to the Grand Jurors not more fully known, doing business under the name of Doctor Johnson Remedy Company, did then and there unlawfully, wilfully and knowingly

ship and deliver for shipment from one state of the United States, to wit, the State of Missouri, to the city of Washington, in the District of Columbia, a certain box containing certain unbroken packages of drugs as follows, to wit, one unbroken package called and denominated as to the contents thereof "Cancerine Tablets;" two unbroken packages called and denominated as to the contents thereof "Antiseptic Tablets;" two unbroken packages or bottles called and denominated as to the contents thereof "Blood Purifier;" one unbroken package or bottle called and denominated as to the contents thereof "Special No. 4;" one unbroken package, box or carton called and denominated as to the contents thereof "Cancerine No. 17;" one unbroken package, box or carton called and denominated as to the contents thereof "Cancerine No. 1;" all of which said packages formed and constituted what was termed in substance "Doctor Johnson's Mild Combination Treatment for Cancer," and all of which said packages, cartons, boxes and bottles were then and there misbranded within the meaning of the law, to wit, the Act approved June 30, 1906, entitled "An Act for preventing the manufacture, sale and transportation of adulterated or misbranded or poisonous or deleterious foods and drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" that said unbroken package, box or carton denominated as to the contents thereof "Cancerine Tablets," was then and there labeled and branded as follows, to wit, "Complies with the Food and Drug Act, June 30th, 1906. Cancerine Tablets. Take two tablets in water every three hours during the day. Do not take more than four doses in twenty-four hours. Prepared for and distributed by Dr. O. A. Johnson, 1233 Grand Ave., Kansas City, Mo.;" which said label and brand was then and there false and misleading in this to wit, that it bears thereon by the name, "cancerine tablets," a statement regarding such article and the substances contained therein, which is false and misleading in this particular; that it implies that said tablets labeled, cancerine tablets, as aforesaid, will cure and are effective in bringing about the cure of cancer, when in truth and in fact said article is wholly worthless and ineffective in bringing about the cure of cancer, as he, the said O. A. Johnson, then and there well knew, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States.

SECOND COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and charge: That the said O. A. Johnson, whose christian name is to the Grand Jurors not more fully known, on, to wit, the 13th day of May, A. D., 1908, at Kansas City, Jackson County, Missouri, in said Division and District, unlawfully, wilfully and knowingly did ship and deliver for shipment from one state of the United States, to wit, the State of Missouri, to the city of Washington, in the District of Columbia, as aforesaid, a certain unbroken package or bottle called and denominated as to the contents thereof, "Blood Purifier," as aforesaid, which said package and bottle was then and there misbranded within the meaning of the law, to wit, the Act approved June 30, 1906, entitled "An Act for preventing the manufacture, sale and transportation of adulterated or misbranded or poisonous or deleterious foods and drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" which said package and bottle was labeled as follows, to wit, "Guaranteed Under the Pure Food and Drugs Act, June 30, 1906. Serial No. 18131. Contains Not More Than 20 Per Cent Alcohol. Doctor Johnson's Mild Combination Treatment for Cancer. Blood Purifier. This is an effective Tonic and Alterative. It enters the circulation at once, utterly destroying and removing impurities from the blood and entire system. Acts on the Bowels, Kidneys and Skin, eliminating poisons from the system, and when taken in connection with the Mild Combination Treatment gives splendid results in the treatment of Cancer and other malignant diseases. I always advise that the Blood Purifier be continued some little time after the cancer has been killed and removed and the sore healed. Recommended in all conditions associated with

impure blood, poor digestion and non-assimilation of food; also poor circulation, weak heart, etc. Directions—Shake well. Take one teaspoonful in a little cold water before each meal, three times a day. Do not take in too large doses. The best results can be obtained only where it is taken as directed. Forty-five drops usually make a teaspoonful. Please count and see that your teaspoon is not too large. Prepared for and distributed by Doctor Johnson Remedy Company, 1233 Grand Avenue, Kansas City, Mo.," which said label was then and there false and misleading in the following particulars, to wit, that it bears the false and misleading statement that said drug is a part of the treatment for cancer; that it enters the circulation at once, utterly destroying and removing impurities from the blood and entire system; that when taken in connection with the mild combination treatment it gives splendid results in the treatment of cancer and other malignant diseases; that it is always advised that the blood purifier be continued some little time after the cancer has been killed and removed and the sore healed; whereby it is held out and falsely claimed that said drug is efficacious in the treatment of cancer and that the cancer thereby can be killed and removed and the sore healed; when in truth and in fact said drug contained in said packages so labeled is entirely worthless and without effect either in whole or part as a cure for cancer and for killing and removing cancer and in healing the cancer sore, as he, the said O. A. Johnson then and there well knew, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States.

THIRD COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and charge: That the said O. A. Johnson, whose christian name is to the Grand Jurors not more fully known, on, to wit, the 13th day of May, A. D., 1908, at Kansas City, Jackson County, Missouri, in said Division and District, unlawfully, wilfully and knowingly did ship and deliver for shipment from one state of the United States, to wit, the State of Missouri, to the city of Washington, in the District of Columbia, as aforesaid, a certain other unbroken package or bottle called and denominated as to the contents thereof, "Blood Purifier," as aforesaid, which said package and bottle was then and there misbranded within the meaning of the law, to wit, the Act approved June 30, 1906, entitled "An Act for preventing the manufacture, sale and transportation of adulterated or misbranded or poisonous or deleterious foods and drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" which said package and bottle was labeled as follows, to wit, "Guaranteed Under the Pure Food and Drugs Act, June 30, 1906. Serial No. 18131. Contains Not More Than 20 Per Cent Alcohol. Doctor Johnson's Mild Combination Treatment for Cancer. Blood Purifier. This is an effective Tonic and Alterative. It enters the circulation at once, utterly destroying and removing impurities from the blood and entire system. Acts on the Bowels, Kidneys and Skin, eliminating poisons from the system, and when taken in connection with the Mild Combination Treatment gives splendid results in the treatment of Cancer and other malignant diseases. I always advise that the Blood Purifier be continued some little time after the cancer has been killed and removed and the sore healed. Recommended in all conditions associated with impure blood, poor digestion and non-assimilation of food; also poor circulation, weak heart, etc. Directions—Shake Well. Take one teaspoonful in a little cold water before each meal, three times a day. Do not take in too large doses. The best results can be obtained only where it is taken as directed. Forty-five drops usually make a teaspoonful. Please count and see that your teaspoon is not too large. Prepared for and distributed by Doctor Johnson Remedy Company, 1233 Grand Avenue, Kansas City, Mo.," which said label was then and there false and misleading in the following particulars, to wit, that it bears the false and misleading statement that said drug is a part of the treatment for cancer; that it enters

the circulation at once, utterly destroying and removing impurities from the blood and entire system; that when take in connection with the mild combination treatment it gives splendid results in the treatment of cancer and other malignant diseases; that it is always advised that the blood purifier be continued some little time after the cancer has been killed and removed and the sore healed; whereby it is held out and falsely claimed that said drug is efficacious in the treatment of cancer and that the cancer thereby can be killed and removed and the sore healed; when in truth and in fact said drug contained in said packages so labeled is entirely worthless and without effect either in whole or in part as a cure for cancer and for killing and removing cancer and in healing the cancer sore, as he, the said O. A. Johnson then and there well knew, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States.

FOURTH COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and charge: That the said O. A. Johnson, whose christian name is to the Grand Jurors not more fully known, on, to wit, the 13th day of May, A. D., 1908, at Kansas City, Jackson County, Missouri, in said Division and District, unlawfully, wilfully and knowingly did ship and deliver for shipment from one state of the United States, to wit, the State of Missouri, to the city of Washington, in the District of Columbia, as aforesaid, a certain unbroken package or bottle called and denominated as to the contents thereof, "Special No. 4," as aforesaid, which said package and bottle was then and there misbranded within the meaning of the law, to wit, the Act approved June 30, 1906, entitled "An Act for preventing the manufacture, sale and transportation of adulterated or misbranded or poisonous or deleterious foods and drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" which said package and bottle was labeled as follows, to wit, "Complies With the Food and Drug Act, June 30th, 1906. Dr. Johnson's Mild Combination Treatment for Cancer. Special No. 4. Directions—This is to be used locally to all parts where the skin is not broken, but where there is swelling, soreness and pain. It is to be applied by rubbing in thoroughly with the fingers or hand once or twice daily, according to indications—taking about fifteen or twenty minutes in which to apply it, for the good coming from the use of this remedy depends fully as much upon the amount of rubbing done as upon the quantity used. It has a strong stimulative and absorptive power; will remove swelling, arrest development, restore circulation and remove pain. Is indicated in all cases of malignancy where there is a tendency of the disease to spread, and where there is considerable hardness surrounding the sore. Applied thoroughly to a lump or to an enlarged gland will cause it to soften, become smaller and be absorbed. If this Special No. 4 should cause irritation of the skin, such as a blister or pimples to form, then discontinue its use at once, and apply the Cancerine No. 1 to the irritated parts night and morning until the irritation is relieved, then take up again the use of this Special No. 4. Prepared for and Distributed by Dr. O. A. Johnson, 1233 Grand Avenue, Kansas City, Mo.;" the statements borne by which said label were false and misleading in these particulars, to wit, that said article will not in case of cancer remove swelling, arrest development, restore circulation and remove pain; that it will not in case of cancer when applied thoroughly to a lump or an enlarged gland cause it to soften, become smaller and be absorbed; that in case of cancer it is ineffective and is not indicated in all cases of malignancy where there is a tendency of the disease to spread; that the tendency of said label and the statement borne thereon is to lead to the belief that said drug will cure and tend to cure cancer in the manner indicated, when in truth and in fact it is entirely worthless and ineffective for the purposes stated in said label, as he, the said O. A. Johnson then and there well knew, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States.

FIFTH COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and charge: That the said O. A. Johnson, whose christian name is to the Grand Jurors not more fully known, on, to wit, the 13th day of May, A. D., 1908, at Kansas City, Jackson County, Missouri, in said Division and District, unlawfully, wilfully and knowingly did ship and deliver for shipment from one state of the United States, to wit, the State of Missouri, to the city of Washington, in the District of Columbia, as aforesaid, a certain unbroken package, box or carton called and denominated as to the contents thereof "Cancerine No. 17," which said package, box or carton was then and there misbranded within the meaning of the law, to wit, the Act approved June 30, 1906, entitled "An Act for preventing the manufacture, sale and transportation of adulterated or misbranded or poisonous or deleterious foods and drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" which said package, box or carton was labeled as follows, to wit, "Complies with the Pure Food and Drug Act, June 30th, 1906. Cancerine No. 17. Directions: Use during the night by spreading on the affected parts and cover with cotton or soft white cloth. Dr. Johnson Remedy Co., 1233 Grand Avenue, Kansas City, Mo.;" the statements borne by which said label were then and there false and misleading in the following particulars, to wit, that said drug is offered as a part of the treatment for cancer, and that the use of the name "Cancerine No. 17" implies, holds out and represents that said drug will cure and is effective in bringing about the cure of cancer, when in truth and in fact said article is wholly worthless and ineffective in bringing about the cure of cancer and in contributing to the cure of cancer, as he, the said O. A. Johnson then and there well knew, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States.

SIXTH COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present and charge: That the said O. A. Johnson, whose christian name is to the Grand Jurors not more fully known, on, to wit, the 13th day of May, A. D., 1908, at Kansas City, Jackson County, Missouri, in said Division and District, unlawfully, wilfully and knowingly did ship and deliver for shipment from one state of the United States, to wit, the State of Missouri, to the city of Washington, in the District of Columbia, as aforesaid, a certain unbroken package, box or carton called and denominated as to the contents thereof "Cancerine No. 1," which said package, box or carton was then and there misbranded within the meaning of the law, to wit, the Act approved June 30, 1906, entitled "An Act for preventing the manufacture, sale and transportation of adulterated or misbranded or poisonous or deleterious foods and drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes;" which said package, box or carton was labeled as follows, to wit, "Complies with the Food and Drug Act, June 30th, 1906. Dr. Johnson's Mild Combination Treatment for Cancer, Tumor and Other Chronic Diseases. Cancerine No. 1. This is to be applied to the sore or cancer by spreading on a cloth cut the size of the sore after it has been thoroughly washed by the antiseptic. Tendency is to convert the sore from an unhealthy to a healthy condition and promote healing. Also it destroys and removes dead and unhealthy tissue. Prepared for and distributed by Dr. O. A. Johnson, 1233 Grand Ave., Kansas City, Mo.;" which said label and brand was then and there false and misleading in this, to wit, that it bears thereon by the name "Cancerine No. 1," and otherwise statements regarding such article and the substances contained therein, which are false and misleading in these particulars; that said drug is a part of the treatment for cancer; that said drug labeled "Cancerine No. 1," as aforesaid, will cure and is effective in bringing about the cure of cancer; that the tendency of said drug is to convert the sore from an unhealthy to a healthy condition and to promote

healing; also that it destroys and removes dead and unhealthy tissue; when in truth and in fact said article and drug is wholly worthless and ineffective in bringing about the cure of cancer or contributing thereto; that it has no tendency in the case of cancer to convert the sore from an unhealthy to a healthy condition and to promote healing, and, in case of cancer, does not destroy and does not remove the unhealthy cancerous tissue, as he, the said O. A. Johnson then and there well knew, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States.

A. S. VAN VALKENBURGH,
United States Attorney.

The defendant, through his attorneys, appeared and filed the following motion to quash said indictment, which motion is as follows:

IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA, WESTERN DIVISION,
WESTERN DISTRICT, STATE OF MISSOURI.

UNITED STATES }
v. } No. 2795.
O. A. JOHNSON. }

MOTION TO QUASH.

Comes now the defendant O. A. Johnson and moves the court to quash each and every count in the indictment in the above entitled cause, for the reason, and because,

First. Each and all of the six counts of the indictment fail to state facts sufficient to constitute any crime or offense under the Act of Congress approved June 30, 1906, as in each of said counts claimed and charged.

Second. No facts are alleged or stated in any of the counts that come within or covered by the provisions of said Act of June 30, 1906, setting up and relied upon in said indictment.

HARKLESS AND HINSTEAD,
Attorneys for Defendant.

The motion having come on for a hearing, and having been argued by counsel for the respective parties, the Court rendered its judgment in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION OF
THE WESTERN DISTRICT OF MISSOURI.

UNITED STATES, *Complainant*, }
vs. }
O. A. JOHNSON, *Defendant*. }

Opinion by PHILIPS, *District Judge*.

The defendant has filed motion to quash the indictment, for the principal reason that it does not disclose an indictable offense. It is predicated of what is known as the "Pure Food and Drug Act," entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes." Approved June 30, 1906. It contains six counts. The first count, in substance, charges that the defendant shipped from one State to another certain articles designated as "Cancerine Tablets," "Antiseptic Tablets," "Blood Purifier," "Special No. 4," "Cancerine No. 17," "Cancerine No. 1," which constituted "Dr. Johnson's Mild Combination Treatment for Cancer." It charges that they were misbranded within the meaning of the Act aforesaid, in that the broken packages, etc. of "Cancerine Tablets" were labeled and branded as follows, to wit: "Complies with the Food

and Drug Act, June 30, 1906. Cancerine Tablets. Take two tablets in water every three hours during the day. Do not take more than four doses in twenty-four hours. Prepared for and distributed by Dr. O. A. Johnson, 1233 Grand Ave., Kansas City, Mo.," which said label or brand is alleged to be false and misleading in that it bears the name "Cancerine Tablets," which statement, regarding such articles and substances contained therein, is false and misleading in that it implies that said tablets will cure, and are effective in bringing about the cure of cancer, which was untrue, and that they were worthless and ineffective for such purpose.

The second count is predicated of packages containing "Blood Purifier," which were misbranded within the meaning of said Act, in that they were labeled "Guaranteed under the Pure Food and Drug Act, June 30, 1906, Serial No. 18131. Contains not more than 20 percent Alcohol. Dr. Johnson's Mild Combination Treatment for Cancer. Blood Purifier. This is an effective Tonic and Alterative. It enters the circulation at once, utterly destroying and removing impurities from the blood and entire system. Acts on the Bowels, Kidneys and Skin, eliminating poisons from the system, and when taken in connection with the Mild Combination Treatment gives splendid results in the treatment of cancer and other malignant diseases." This was followed with directions how to take the remedy. The charge is then made that said label was false and misleading in that it bears false statement that said drug is a part of the treatment for cancer, etc., whereby it held out and falsely claimed that said drug is efficacious in the treatment of cancer, etc., when in truth and in fact the drug contained in said packages is worthless and ineffective for such purposes.

The third count is predicated of packages under the name of "Blood Purifier," and is in effect the same as the preceding shipment, only to a different party.

The fourth count is predicated of packages and bottles under the name of "Special No. 4" with the label "Dr. Johnson's Mild Combination Treatment for Cancer. Special No. 4," with directions as to how it was to be applied and used, and its effect. This label is charged to be false and misleading in that it would not accomplish the results stated.

The fifth count is predicated of shipments of boxes, etc. containing "Cancerine No. 17," with directions as to how the same should be applied and used. The indictment charges that these were false and misleading in that said drug was offered as part of the treatment for cancer, holding out and representing that said drug will cure, and is effective in bringing about the cure of cancer, when in fact and in truth it was not effective for such purpose.

The sixth count is predicated of a shipment of box or carton called "Cancerine No. 1," which is alleged to be misbranded within the meaning of the Act, in that the label contained the following: "Dr. Johnson's Mild Combination Treatment for Cancer, Tumor and Other Chronic Diseases. Cancerine No. 1," with directions as to how the same should be applied and used. Said label or brand is alleged to be false and misleading in that it bears thereon the name "Cancerine No. 1," statements regarding such articles and substances contained therein which are false and misleading, in that said drug was represented as part of the treatment for cancer, and that it would cure, and is effective in bringing about the cure of cancer, etc., when in truth and fact it is wholly worthless and ineffective for the purposes recommended.

From which it is apparent that no charge is preferred by the indictment that the drug or medicine was adulterated, or that it contained anything that was poisonous or deleterious, or that it contained less than what was represented; or that in any respect there was any misbranding as to the contents and composition thereof. The substantive charge is that the articles manufactured and shipped by the defendant are and were inefficacious in producing the cures and remedies indicated by the label. The question, therefore, to be decided is whether this presents an indictable offense within the provisions of the Pure Food and Drug Act.

The very title of the Act indicates its scope and purport. Its underlying purpose was to protect the public health against the imposition upon the users of food, drugs, and medicines which were adulterated, misbranded, poisonous, or deleterious. To this end, the first Section of the Act makes it unlawful and an indictable offense for any person to manufacture * * * any article of food or drug which is adulterated or misbranded, within the meaning of the Act.

The second Section forbids the introduction into any State, etc., or from any foreign country, or shipment to any foreign country, of any article of food or drug which is adulterated or misbranded within the meaning of the Act, etc.

The third Section directs that the Secretary of the Treasury, of Agriculture, and of Commerce and Labor, shall make uniform rules and regulations for carrying out the provisions of the Act.

The fourth Section declares that the examinations of specimens of foods and drugs shall be made in the Bureau of Chemistry of the Department of Agriculture, or under the direction and supervision of such Bureau, "for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of this Act."

Section 5 declares the duty of District Attorneys, to whom the Secretary of Agriculture shall report any violation of this Act.

Section 6 declares that the term "drug," as used in the Act, shall include all medicines and preparations recognized in the United States Pharmacopœia or National Formulary for internal and external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or animal.

Section 7 then specifies when an article shall be deemed to be adulterated: In case of drugs, if it differs from the standard of strength, quality, or purity, as determined by the test laid down in the United States Pharmacopœia or National Formulary; "Provided, that no drug defined in the United States Pharmacopœia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated upon the bottle, box, or other container thereof although the standard may differ from that determined by the test laid down in the United States Pharmacopœia or National Formulary;" or if its strength or purity fall below the standard under which it is sold; or any substance has been substituted wholly or in part for the article; or any valuable constituent of the article has been wholly or in part abstracted; or if it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed; or if it contain any added poisonous or other added deleterious ingredient which may render such articles injurious to health (with a certain provision); or if it consist in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, etc.

Section 8 is as follows:

"That the term 'Misbranded,' as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced."

It is conceded that the indictment is predicated of the words contained in the foregoing section 8, "the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular." In other words, the contention is that the label on the bottle or container, as to the curative or remedial effect of the contents, is a misbranding within the meaning of the Statute, if in fact the prescription be ineffectual for the purpose indicated. This, it seems to me, is an

entire misconception of the term "misbranding" as used in the Act. The language: "the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular," must be read and interpreted, so as to have regard to its context, and is to be restrained by the subject-matter of the Act.

Having regard to the intendment of the whole Act, which is to protect the public health against adulterated, poisonous and deleterious foods, drugs, etc., the labeling or branding of the bottle or container, as to the quantity or composition of "the ingredients or substances contained therein which shall be false or misleading," by no possible construction can be extended to an inquiry as to whether or not the prescription be efficacious or worthless to effect the remedy claimed for it. Premitting any expression of opinion as to how far Congress may go in the direction claimed under this indictment, it is sufficient to say that this legislation, predicated of the Commerce clause of the Federal Constitution, it must be conceded, presses the power of the general government close to the confines of limitation.

In the debates in Congress, when this measure was under consideration, it was never sought to be justified except on the ground of protecting the public health, as it might be affected by Inter-State shipments of food, drugs, etc. At no time was it asserted, or pretended, that it was proposed to reach the matter of holding the manufacturers and vendors of prescriptive or patented medicines, multitudinous and multiform as they are, to criminal liability for mis-statements as to the curative or remedial effects of the prescription, which would necessarily depend upon the opinions of contending experts and the users of the nostrums.

As this is a criminal statute, creating a new offense, it must be strictly construed and applied. It must be restrained to its expressed, reasonable intendment; otherwise, the Courts, by mere construction, may extend its operation far beyond the legislative intent. If it had been the mind of Congress to make it an indictable offense for such manufacturers and vendors by their labels or brandings on bottles and packages to mislead the buyers as to the curative or healing properties of the drugs, as to the mere matter of commendation, apt words, both in the title and body of the Act, could, and should, have been easily employed to indicate such purpose, and not leave it to the Courts by strained construction to read it into the statute.

The motion to quash is sustained.

After the rendering of said judgment, proceedings were instituted on behalf of the United States for a Writ of Error to the Supreme Court of the United States for the purpose of having the above judgment reviewed.

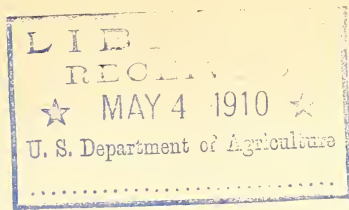
This notice is given pursuant to Section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of United States district courts and of United States circuit courts of appeal adverse to the Government will not be accepted as final until acquiescence shall have been published.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *March 30, 1910.*





F. & D. No. 50-C.

Issued May 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 267, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

On or about February 4, 1910, Nettie Carr, Laurel, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Nettie Carr was afforded an opportunity for hearing and as it appeared after the hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States attorney for the District of Columbia. In due course a criminal information against the said Nettie Carr was filed in the Police Court of the District of Columbia, charging that the milk was adulterated in that a substance, water, had been mixed with it in such a manner as to reduce and lower its quality. On March 9, 1910, the defendant entered a plea of guilty and the court imposed a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 5, 1910.*



F. & D. No. 51-C.

Issued May 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY

NOTICE OF JUDGMENT NO. 268, FOOD AND DRUGS ACT.

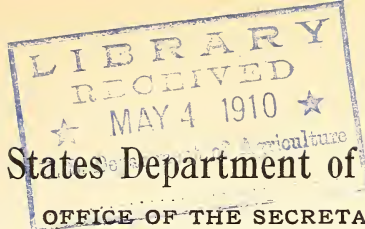
ADULTERATION OF CREAM.

On or about February 26, 1910, Lynden W. Howard, of Frederick, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the cream was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Lynden W. Howard was afforded an opportunity for hearing, and as it appeared after the hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States attorney for the District of Columbia. In due course a criminal information against the said Lynden W. Howard was filed in the Police Court of the District of Columbia charging that the cream was adulterated in that a valuable constituent thereof had been partially or wholly abstracted. On March 8, 1910, the defendant entered a plea of guilty and the court imposed a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 5, 1910.*



Issued May 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 269, FOOD AND DRUGS ACT.

MISBRANDING OF HONEY.

On or about October 7, 1907, Henry Boeckmann, of Brooklyn, N. Y., shipped from the State of New York into the State of New Jersey a quantity of a food product labeled: "Compound pure comb and strained honey and corn syrup, A. Boeckmann, Brooklyn, N. Y." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded Henry Boeckmann and the dealer from whom the samples were purchased opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence on which to base a prosecution.

In due course the evidence was presented by the United States Attorney for the Eastern District of New York to the grand jury, who presented an indictment against the said Henry Boeckmann charging the above shipment and that the product was misbranded, in that it was labeled "Compound pure comb and strained honey and corn syrup," which statement was false and misleading, in that it represented the principal ingredient of said product to be pure comb honey, whereas, in fact, the principal ingredient was glucose and starch sugar. To this indictment a demurrer was filed by the defendant, and on January 15, 1910, the case came on for hearing on the demurrer and the court rendered its opinion in substance and form as follows:

UNITED STATES CIRCUIT COURT, EASTERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA

vs.

} Jany. 15, 1910.

HENRY BOECKMANN.

WILLIAM J. YOUNGS, *U. S. Attorney*; WILLIAM P. ALLEN, *Asst. U. S. Attorney*, of Counsel.

OTTO F. STRUSE, for defendant.

CHATFIELD, J.

A demurrer has been interposed to an indictment charging the defendant with having shipped from the State of New York to the State of New Jersey, a certain

article of food for man, labeled: "Compound: Pure Comb and Strained Honey and Corn Syrup;" that the label was false and misleading, and the contents of the jar misbranded, in that "the said label represented the principal ingredient of the said contents of said glass jar to be pure comb honey" when in fact the contents were "almost wholly glucose and starch sugar, and the said contents of the said glass jar, in truth and in fact, consisted of a very small percentage of pure comb honey."

It has been called to the attention of the Court that under the authority of the Statute of June 30, 1906, 34 Stat. at Large, 768, certain regulations for the guidance of the public, and for carrying out the provisions of the law, have been made by the Secretary of Agriculture, and certain rulings or decisions by the Secretary of Agriculture have construed the language of the Statute. For instance, Food Inspection Decision No. 75 provides that, "When both maple and cane sugars are used in the production of syrup, the label should be varied according to the relative proportion of the ingredients, the name of the sugar present in excess of fifty per cent of the total sugar content, should be given the greater prominence on the label; that is, it should be given first." Also, Food Inspection Decision No. 87 provides that, "Viscous syrup obtained by the incomplete hydrolysis of the starch of sugar" should be labeled "corn syrup with cane flavor," if a small percentage of the product of the cane is added thereto.

There is no charge of any violation of regulations, or refusal to comply with the rulings of the Commissioner of Agriculture, but the case presents an entirely distinct question depending upon the provisions of the Statute itself.

In the present indictment we have an allegation, that the defendant has put upon the market, for interstate commerce, an article which is misbranded in that the label is misleading, solely because the principal ingredient is alleged to be held out to the public as "pure comb honey," when in reality "glucose and starch sugar" made up almost wholly the actual "principal ingredient."

Under the decision of *In re Wilson*, 168 Fed. 566, such a label as is recited would not be contrary to fact, and this Court agrees in the opinion that it is impossible to say what portion of the label as printed would signify greater percentage of the product.

The demurrer will be sustained.

The United States entered an appeal from this decision.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of the United States District Courts and of United States Circuit Courts of Appeal adverse to the Government will not be accepted as final until acquiescence shall have been published.

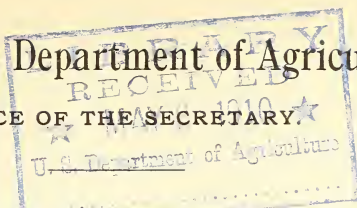
JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 5, 1910.*

Issued May 6, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.



NOTICE OF JUDGMENT NO. 270, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF MOLASSES.

On various dates extending from March 18, to August 1, 1908, C. E. Coe, of Memphis, Tenn., shipped from the State of Tennessee into the State of Arkansas 779 cases of molasses. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, indicated that it was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipments were liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Arkansas. In due course a libel was filed against the said 779 cases of molasses, charging that the product was adulterated within the meaning of the act in that glucose had been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength and had been substituted in part for the genuine article; and was misbranded within the meaning of the act, in that a part of said 779 cases were labeled in conspicuous type "Sugar Glen Open Kettle Sugar House Molasses absolutely pure. Highest grade sugar house Molasses," and inconspicuously printed across the face of the label in some cases and across the back in others, "Compound molasses and corn syrup," and that the remainder of said 779 cases were labeled conspicuously "Burro Sugar House Ribbon Cane Molasses," and inconspicuously printed across the face of the label in some cases and across the back in others, "Compound Molasses and Corn Syrup," which form of labelling was false, misleading, and deceptive, in that it conveyed the impression that the product was pure molasses and said impression would not be corrected by the words "Compound Molasses and Corn Syrup" inconspicuously printed across the face or back of the label, and praying seizure, condemnation, and forfeiture. An answer was filed by C. E. Coe, Memphis, Tenn., setting up a claim to the said 779 cases of molasses, and denying the adulteration and misbranding.

On November 7, 1908, the case came on for trial on the misbranding charge, the Government having abandoned the charge of adulteration, and after hearing the evidence, the court instructed the jury to return a verdict for the claimant. Subsequently the United States entered an appeal in this case and also filed a writ of error, and the case, in due course, coming on for hearing before the United States Circuit Court of Appeals for the Eighth Circuit, the court rendered its opinion sustaining the verdict of the lower court, in substance and in form as follows:

POLLOCK, *District Judge*, delivered the opinion of the court.

This is a libel of condemnation arising under the provisions of the Pure Food and Drug Law enacted by Congress June 30, 1906, and the regulations of the secretaries promulgated October 20, 1906, in pursuance of power conferred on them by section 3 of the act. The facts are:

One C. E. Coe, a merchant of the city of Memphis, Tennessee, at various dates between March 18 and August 1, 1908, sold and shipped the seven hundred and seventy-nine cases of molasses in controversy to certain wholesale jobbing houses in the city of Little Rock, Arkansas. Thereafter, on August 19th, the District Attorney for the District of Arkansas filed his libel of condemnation in which it was charged the molasses were both adulterated and misbranded in violation of the provisions of the act. A writ of seizure was issued and executed by the marshal, seizing, as shown by his return, six hundred and eighty-five cases of the molasses in question. Of the cases seized, as shown by his return, four hundred and sixty-four were what is labeled "sugar glen" molasses, and two hundred and twenty-one cases as "burro" molasses.

Thereafter, on September 21, 1908, by leave of Court, an amended libel of condemnation was filed in which it was charged the molasses contained in the cases were adulterated by the use of commercial glucose, mixed and packed with the molasses to such extent as to injuriously affect the quality and strength in violation of the law. And it was further charged, in substance, the cases were so labeled and misbranded as to convey the impression the contents of the cases were pure sugar house molasses, whereas, in truth, they were a compound of sugar molasses and corn syrup.

Thereafter, Coe filed his affidavit as claimant of the molasses and answered, setting up his guarantee to the purchasers under the terms of the act, denied the charges of adulteration and misbranding, attached as exhibit to his answer a copy of the label of each brand of molasses sold and delivered by him, and demanded a trial by jury, as provided by section 10 of the act, and gave a bond as provided in the act to secure possession of the molasses.

A trial by jury was had, at which, by direction of the Court, the jury returned a verdict in favor of the claimant on which a judgment was entered in his favor. From this judgment the government, being uncertain as to its rights, prosecutes its appeal in case No. 3024 and also prosecutes error in case No. 3030.

From the statement made it would seem quite plain the proceedings on the trial cannot be reexamined by this Court on the appeal taken. Section 10 of the act, among other matters, provides, as follows:

"That any article of food, drug or liquor that is adulterated or misbranded within the meaning of this act, and is being transported from one State, Territory, district or insular possession to another for sale, or having been transported, remains unloaded, unsold or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or the Territories, or insular possessions of the United States, or if it be imported from a foreign country for sale, or if it is intended for export to a foreign country, shall be liable to be proceeded against in any district court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation. * * * The proceedings of such libel shall con-

form, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States."

The right to trial by jury granted by this act on demand of either party is absolute and means a trial by jury according to the established practice in courts of common law. *Elliott v. Toeppner*, 187 U. S. 327; *Insurance Company v. Comstock*, 16 Wall, 258; *Parsons v. Bedford*, 3 Pet. 433; *Bower v. Holzworth, et al.*, 138 Fed. 28; *Duncan v. Landis*, 106 Fed. 839; By Article VII of the Constitution it is provided:

"No fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law."

Mr. Justice Clifford, delivering the opinion of the Court in *Insurance Company v. Comstock*, supra, in commenting on this provision of the Constitution, said:

"Two modes only were known to the common law to re-examine such facts, to wit: the granting of a new trial by the court where the issue was tried or to which the record was returnable, or secondly by the award of a *venire facias de novo* by an appellate court for some error of law which intervened in the proceedings. All suits which are not of equity or admiralty jurisdiction, whatever may be the peculiar form which they may assume to settle legal rights, are embraced in that provision. It means not merely suits which the common law recognized among its settled proceedings, but all suits in which legal rights are to be determined in that mode, in contradistinction to equitable rights and to cases of admiralty and maritime jurisdiction, and it does not refer to the particular form of procedure which may be adopted."

As a jury trial was demanded by the claimant in this case, and as such trial was had, the appeal taken in case No. 3024 must be dismissed because such method is inappropriate to review the proceedings had. It is so ordered.

At the trial the charge of adulteration was abandoned by the Government and it relied solely and alone on the charge of misbranding. As has been seen, at the conclusion of the evidence the Court charged the jury neither of the labels under which the cases of molasses were sold and shipped from Memphis to Little Rock was misleading nor constituted a misbranding, as that term is employed in the act, nor in regulation 17 promulgated by the secretaries under authority of the act. This action of the Court constitutes the sole ground of error relied upon to work a reversal of the judgment rendered in the case.

The only evidence adduced on the trial was that of the marshal who executed the writ of seizure and that of Geo. B. Spencer a government chemist from the Department of Agriculture. The marshal testified the cases of molasses seized by him bore labels identical with those attached to and made part of the answer of claimant, which labels were offered and received in evidence at the trial, as Exhibits A and B.

The witness Spencer testified he made a chemical analysis of the brands of molasses seized in this case; that the sugar glen brand contained 30% and the burro brand 40% of commercial glucose; that pure molasses contain no commercial glucose but do contain natural glucose; that neither natural nor commercial glucose is injurious or deleterious to health; that a large number of syrups on the market contain as high as 80% or 90% commercial glucose; that according to the practice and rulings of the Bureau of Chemistry of the Department of Agriculture the labeling or branding of commercial glucose, as "made from corn syrup" is permissible.

The provisions of the act prescribing what shall constitute a misbranding within its meaning, as applied to food products, are as follows:

"If it be labeled or branded so as to deceive or mislead the purchaser. * * * If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular; provided that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

"First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not

an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

"Second. In the case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word 'compound,' 'imitation' or 'blend,' as the case may be, is plainly stated on the package in which it is offered for sale."

Regulation 17 of the secretaries, (which has the effect of law) on the subject of misbranding, in so far as here thought applicable, provides:

"(a) The term 'label' applies to any printed, pictorial, or other matter upon or attached to any package of food or drug product, or any container thereof subject to the provisions of this act.

"(b) The principal label shall consist, first, of all information which the food and drugs act, June 30, 1906, specifically requires, to wit, the name of the place of manufacture in the case of food compounds or mixtures sold under a distinctive name; statements which show that the articles are compounds, mixtures, or blends; the words 'compound,' 'mixture,' or 'blend,' and words designating substances or their derivatives and proportions required to be named in the case of foods and drugs. All this information shall appear upon the principal label, and should have no intervening descriptive or explanatory reading matter. Second, if the name of the manufacturer and place of manufacture are given, they should also appear upon the principal label. Third, preferably upon the principal label, in conjunction with the name of the substance, such phrases as 'artificially colored,' 'colored with sulphate of copper,' or any other such descriptive phrases necessary to be announced should be conspicuously displayed. Fourth, elsewhere upon the principal label other matter may appear in the discretion of the manufacturer. If the contents are stated in terms of weight or measure, such statement should appear upon the principal label and must be couched in plain terms, as required by Regulation 29.

"(c) If the principal label is in a foreign language, all information required by law and such other information as indicated above in (b) shall appear upon it in English. Besides the principal label in the language of the country of production, there may be also one or more other labels, if desired, in other languages, but none of them more prominent than the principal label, and these other labels must bear the information required by law, but not necessarily in English. The size of the type used to declare the information required by the act shall not be smaller than 8-point (brevier) capitals: PROVIDED, that in case the size of the package will not permit the use of 8-point type, the size of the type may be reduced proportionately.

"(d) Descriptive matter upon the label shall be free from any statement, design, or device regarding the article or the ingredients or substances contained therein, or quality thereof, or place of origin, which is false or misleading in any particular. The term 'design' or 'device' applies to pictorial matter of every description, and to abbreviations, characters, or signs for weights, measures, or names of substances."

If the labels in question be now compared with the provisions of the law above quoted, we find the first panel of each, and that contended by the claimant to be the principal label, to contain, first, the name of the substance or product; second, the place where manufactured or canned; third, words showing the article to be a compound; fourth, the words compound and ingredients; fifth, the name of the manufacturer or canner of the product; sixth, that it contains sulphur dioxide; seventh, that it is guaranteed under the Pure Food Act, serial No. 13,905, all as required by clause b of Regulation 17 above quoted. From a further examination of the labels it is found each in three places distinctly states the product to be a compound of molasses and corn syrup.

As shown from the evidence, this compound contains no substance deleterious or injurious to the health. And, as it further appears from the evidence, under the practice of the Department, commercial glucose may be properly labeled and sold under the name of "corn syrup," we are of the opinion there is nothing in the manner in which the cases of molasses involved in this controversy were labeled that is false or untrue, or which would tend to mislead or deceive a purchaser of ordinary prudence. And there is no evidence found in the record tending to show any one was so deceived or misled by the labels employed.

The authorities relied upon by the government to make out the charge of false branding, as shown by an examination, are cases in which it was determined the labels contained false statements as to the contents of the receptacle labeled. Such cases, for the reasons given, are not applicable to the facts in the case at bar.

The direction of the Court to return a verdict in favor of the claimant was right and must be affirmed.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of the United States District Courts and of United States Circuit Courts of Appeals adverse to the Government will not be accepted as final until acquiescence shall have been published.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 5, 1910.*

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Issued May 6, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 271, FOOD AND DRUGS ACT.

MISBRANDING OF CANE AND MAPLE SYRUP.

On or about October 3, 1907, John A. Tolman & Company of Chicago, Ill., shipped from the State of Illinois to the State of Iowa a consignment of a food product labeled: "Topmost Cane and Maple Syrup. This syrup is composed of the following ingredients and none other. Cane Syrup 60%, Maple Syrup 40%. John A. Tolman & Company, Chicago." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded John A. Tolman & Company and the dealer from whom the samples were purchased opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of evidence on which to base a prosecution.

In due course a criminal information was filed in the District Court of the United States for the Northern District of Illinois, charging the above shipment, and that the product was misbranded in that it contained the statement on the label "This syrup is composed of the following ingredients and none other, Cane Syrup 60%, and Maple Syrup 40%," whereas, in truth and fact, the product contained little if any, maple syrup. To this information the defendant entered a plea of not guilty and on September 24, 1908, the case came on for trial, and a jury having been demanded by the defendant, the issue was submitted to the jury upon the testimony and argument of counsel, and the following instructions:

Gentlemen of the Jury:

This is a case which is governed by the rules of the criminal law. The paper filed by the United States formally charging the offense against the defendant is not an indictment; it is called an information. But the rule which guides you, which you must observe, is the same rule that would be in force if, instead of an information, it were a grand jury indictment. Now, in this case, it is by this rule of the criminal law that it devolves upon the United States to establish this charge against the defendant

beyond all reasonable doubt as distinguished from establishing the charge by the preponderance of the evidence, as has been the rule in some civil cases which you gentlemen have served in. You will recall that in a civil case the court instructed you as to the rule governing in that case, namely, that that side in the litigation which had the greater weight of the evidence was entitled to your verdict. Not so here.

Now, by this expression of reasonable doubt is meant such a state of mind on the part of the jurors, and each juror, where that juror may say that he has an abiding conviction of the guilt of the defendant of the offense charged, that is to say, there is no hypothesis consistent with the defendant's innocence that you can reasonably arrive at. If you are in that frame of mind, the guilt of this defendant of this charge has been established beyond a reasonable doubt. It does not mean such a state of mind as a man may work himself up into in an endeavor to find a way out for somebody accused of crime. That is not a reasonable doubt.

Now, at the outset of this proceeding this defendant is presumed to be innocent, just as in the case of an indictment. It is presumed to be innocent of this offense. The making of the charge, the conducting of the inquiry, the analyses made by all of these witnesses prior to this hearing, the filing of the papers in the court, the issuance of the summons—all that counts for nothing as far as the matter of the guilt of the defendant is concerned, the point being that when you take your oaths here as jurors the defendant stands before you as innocent of this charge as you are; that is what the presumption of innocence means. It is not a form nor a conventional expression which has no color nor meaning. It is a real substantial right, a right of such substance that it has to be torn down and destroyed by evidence—evidence of such a character as to put your mind in that state where you may say, as I said before, you have an abiding conviction of the defendant's guilt. Now, it has been said that it is an important case for the United States. It has been said that it is an important case for this defendant—because it has been said there are people away from this court room interested in the outcome of this litigation. You have not anything to do with that—not a thing—with that procession on the sidewalk moving by this building, you have no concern whatever, save only that it may hear that you have answered your obligation under your oaths in this lawsuit between the parties litigant here in this court room. Now, there is the important thing in this situation, and if you discharge that obligation you have discharged your duty, regardless of what the consequences of your verdict may be.

Now, the charge in this case is that this defendant, the John A. Tolman & Company, on the third day of October, nineteen hundred seven, delivered to the Chicago, Milwaukee and St. Paul Railway Company two packages for transportation over the rails of that company from Chicago, the place of delivery, to Algona, in the state of Iowa; that these packages contained four dozen one-quart oblong tin receptacles filled with a preparation called "Topmost cane and maple syrup," and that to each one of these quart oblong tin receptacles—in plain language, a tin can; you have seen it here—were then and there attached, one upon the front, the other upon the back, labels; which said labels did then and there contain various printed matter; that these labels, that is to say, the one attached to the back of each of these tin receptacles, containing this commodity referred to as "Topmost cane and maple syrup," contained the following statement: "This syrup is composed of the following ingredients, and none other: cane syrup, 60%; maple syrup, 40%. John A. Tolman and Company, Chicago." Then, the charge is in the information that that statement in the label is false and misleading in that the article contained in the tin receptacle contained little, if any, maple syrup. Those portions of the law for an infraction of which the defendant is sued in this case provide that the delivery for shipment of an article of food misbranded for transportation to another state than the point of delivery is prohibited and punishable. The term "misbranded" as related to food means, if the package containing the food product or the label on the package containing the

food product, bears any statement, design, or device regarding the ingredients, or the substances therein contained, which statement, design or device shall be false or misleading in any particular, then, in the case of a charge that—a charge involving the food section, there is a misbranding. So, the charge in this case is in substance that the defendant company, on the date named in the information delivered to the St. Paul road for transportation by that company over its road to Algona, to the addresses named in the information, the consignees named in the information, two boxes containing four dozen of these tin receptacles, each of which tin receptacles was misbranded in the respect indicated, namely, that the brands stated 40% maple syrup when, in truth and in fact, the commodity contained little, if any, maple syrup. The defendant pleads not guilty to this charge. And the charge with the plea, raise the issue, as I have stated, that you are to determine and express by your verdict: did the defendant deliver to the St. Paul road at the time indicated, four dozen of these receptacles contained in these two boxes, consigned as the information states. Now, as to that phase of the inquiry, dealing with the question of the contents of those other receptacles in the two boxes, other than was examined by the chemists, these which it is admitted by the stipulation were found on the shelves of the Algona merchant; I have this to say: you are authorized, if in your judgment the proof justifies it, having in mind the rule of presumption of innocence and reasonable doubt, as I have devined those expressions to you, you are authorized, if you believe the testimony shows a misbranding as to those receptacles referred to specifically in the evidence as having been analyzed, you have a right to infer, and the law authorizes you to infer from that proof as to the contents of the specific receptacles examined and analyzed, that all of the receptacles contained in that two boxes contained the same ingredients and were the same commodity. I say you are authorized to infer that, considering the testimony of the witnesses as to what was contained in this, and all the other evidence in the case, even with no evidence of a specific examination of the other receptacles that went with this receptacle in the box, if you say, if you can say, I have an abiding conviction that the other receptacles in those boxes other than the ones examined contained this same thing, then, on that phase of the case, you have no reasonable doubt, and in determining the question of what is proved here in that regard, as well as in all others, the rule is that in a criminal case, as in a civil case, you bring into the jury box with you your common sense judgment. You take the testimony of the witnesses here and the evidence in this stipulation of facts which the counsel in the case representing the two litigants have agreed to, and subject that testimony to the same kind of judgment that you would subject your important matters away from here to, at home or in your business, with no purpose save only to answer the question, guilty, or not guilty, as charged here, and, as I said a while ago, without any possible or remote regard to the fact that the United States of America or the defendant considers this a very important lawsuit. This is no more important than any other. Subject the testimony of these witnesses, the testimony of this stipulation, all of it together, to your common sense judgment, to determine you in answering the question whether or not the contents of the receptacle is as charged in the government's information, namely, does it contain little or no maple syrup? The facts in this case are for you and not for me. I have no inclination nor authority to control your determination of a matter of fact. Were I to do that, it would be an invasion of your rights and authority. You can not shift that burden to me, if you want to. It is on your shoulders, and not mine. The law of this case is on me, and it is the law that you must take my word for the law, even though you disagree from me as to the law, even though you may think it is not a good law, that you could write a better law, or there should be no law on this subject. It is this thing here that binds you and me in this lawsuit, and this thing here that must be enforced in this case, if the facts of this case fit this law, no matter what your private view may be.

Now, coming to the question—and there does not seem to be much dispute in this case as far as you are concerned—matters for you to determine. There does not seem to be much dispute in this case to bother your minds, that is to say, dispute between witnesses. The difficulty here, if any there be, is in coming to a conclusion of the evidence of the witnesses introduced on one side, as to whether or not that testimony reads within the meaning of this law, the delivery of a thing containing something that was enclosed in a thing misbranded, bearing a false and misleading brand. In other words, it is difficult, if any there be, in construing or interpreting, or analyzing and concluding whether or not these things come within this law—no dispute between the witnesses. The label, as I stated a while ago, and as you know, contains a statement that the contents, in substance the contents of this parcel contain 40% maple syrup, and, as I said a while ago, this law forbids the placing upon the parcel of a label containing that statement, if it is substantially untrue, or substantially misleading. So, the question for you to decide is whether or not this parcel contained a substance, one of the ingredients of which was maple syrup, and if so whether that ingredient, maple syrup, constitutes 40% of the commodity. That is the question for you to determine. And on that question you have had here the testimony of chemists, and I say to you in this kind of a case I suppose that that is about the best testimony we can get. I suppose you probably cannot take that can and determine the contents, the ingredients of the contents. That is a matter for chemical analysis; and yet you have a right, when you go to your jury room, to open that can and determine by your taste, if under your oaths in accordance with the rules I have laid down, you can do it and are satisfied to do it, you may open that can and by your taste determine this defendant to be not guilty. You have that power under the law, and three experts, nor a hundred experts, can take that power away from you, a power, however, to be exercised having regard to the nature of a function which under our system you here exercise, exercising it with no purpose in the world save only to arrive at the truth of the matter, always bearing that in mind.

Now, the dispute is between this prosecution and this defense as to whether or not there is any way of determining what is meant by the expression, "maple syrup," or "pure maple syrup," or "genuine maple syrup." For the United States the position is that the phrase "maple syrup" used on this label of this defendant is to be understood as meaning to him who put it there, and as having been intended by him to be read by him who saw it there, as meaning the result of boiling down the sap of the hard maple tree to a degree or state of consistency where it would be regarded and called maple syrup, excluding the addition to it of any outside substances, excluding putting into it anything in the way of an adulterate—the product solely of boiling down the sap of the hard maple tree. Now, my own judgment is that it is not a serious question, as you might suppose, having in mind that that is what it means—the product solely of boiling down the hard maple sap. It is my judgment that it isn't very important whether it was boiled down to a point where there was within the resultant product 34% of water or 36% of water, or 40% of water. It might very rationally and reasonably still be called maple syrup. The tests which these witnesses have gone by have been explained to you. One has been called the lead test. What that means the witnesses have told you. I will not undertake to repeat to you what they said to you they had in mind when they talked about that test. The ash test is another way which they explained to you, and that test is as familiar to you as to me.

Now, their testimony is that, subjecting the contents of the can to those two tests, certain facts appeared, which facts have been detailed to you by the several witnesses as to the presence of ash and the condition shown by the lead test, and the witnesses have testified as to the amount of ash necessarily and essentially present in pure maple syrup, and you are dealing here, when you talk about maple syrup, you are dealing with pure maple syrup, as I have defined to you the meaning of maple syrup heretofore

in these instructions; and by those tests the reasoning of the witnesses is that the contents of this tin receptacle contain the percentage (and it is a percentage per volume of contents)—the percentage of maple syrup within the can.

I do not know how I can any better explain to you the nature of this charge. It is a new field. There are questions involved which would be more satisfactorily disposed of by the court, after a better opportunity for consideration and reflection than is afforded in the trial of a case, the day after day trial of the case with sessions of the court separated by periods which are largely clogged with other business than the business which calls you here. I have done the best I can in defining to you what the issue is in this case. It is your duty to answer this question: guilty or not guilty, to the best of your ability. If you find for the United States, the form of your verdict will be: we, the jury, find the defendant guilty; if you find for the defendant, the form of your verdict will be: we, the jury, find the defendant not guilty.

On December 23, the jury returned a verdict of "guilty" and defendant filed motions for a new trial, and in arrest of judgment, and on March 7, 1910, these motions were overruled by the court, and a fine of \$50 was imposed upon the defendant.

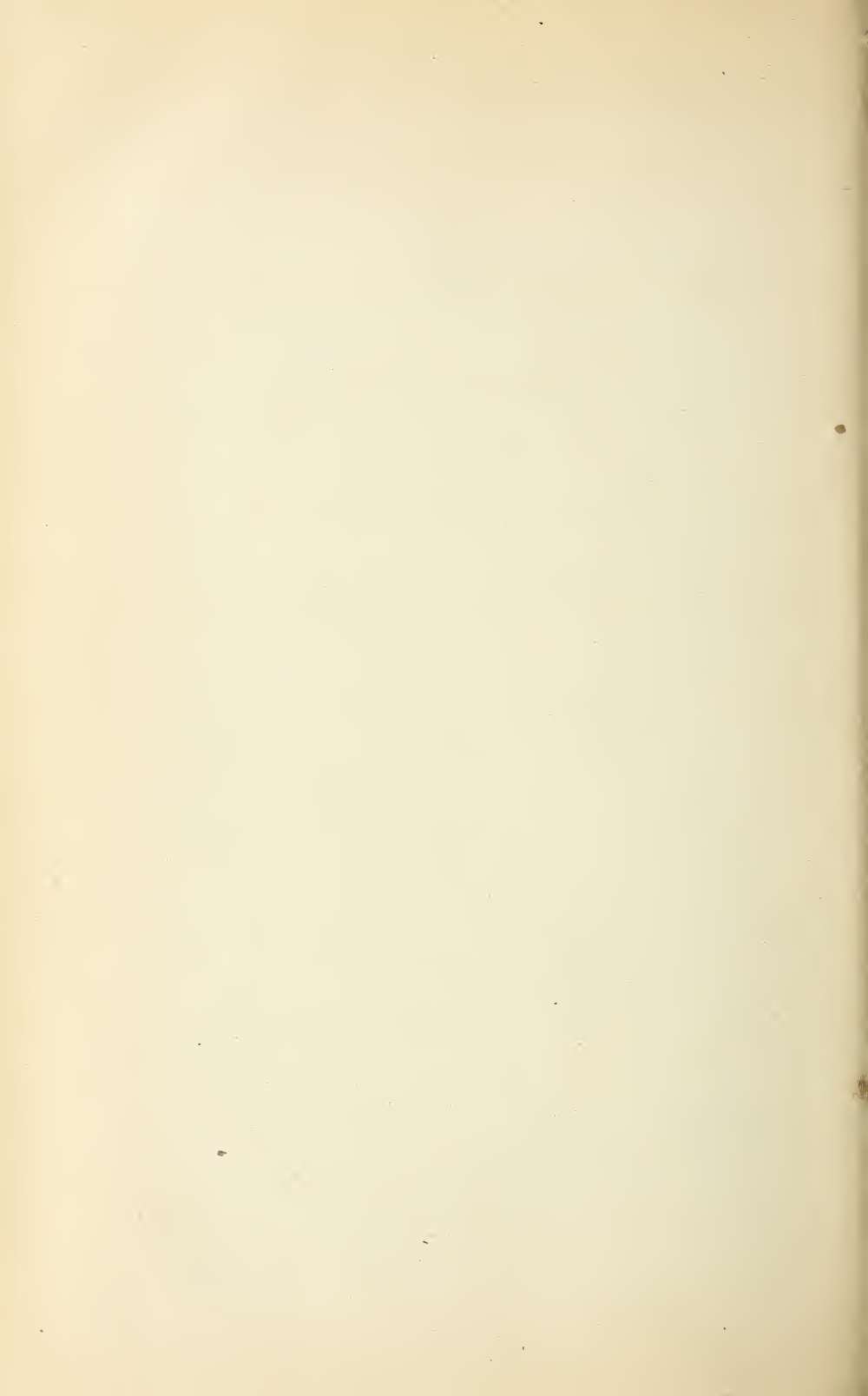
This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

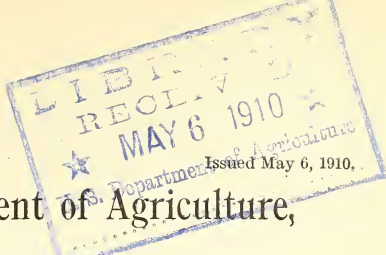
JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 5, 1910.*









United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 272, FOOD AND DRUGS ACT.

ADULTERATION OF DESICCATED EGG.

On or about January 8, 1910, the Monarch Desiccated Egg Company, Chicago, Ill., shipped from the State of Illinois to the State of New York eight hundred pounds of desiccated egg product. Analysis of samples of this product, made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act, June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Southern District of New York. In due course a libel was filed against the said eight hundred pounds of desiccated egg product, charging adulteration of the product within the meaning of the act, because it was in a filthy, decomposed, and putrid condition and unfit for human consumption, and praying seizure, condemnation and forfeiture.

On March 16, 1910, the case coming on for final hearing, and there being no claimant of record, the court rendered its decree, in substance and in form as follows:

At a stated Term of the District Court of the United States of America, for the Southern District of New York, held at the United States Court Rooms, in the City of New York, in the said District, on the 16th day of March, in the year of our Lord one thousand nine hundred and ten.

Present—The Honorable CHAS. M. HOUGH, *District Judge*.

THE UNITED STATES OF AMERICA	}
<i>vs.</i>	
EIGHT HUNDRED POUNDS DESICCATED EGG PRODUCT	}

FINAL DECREE.

The Monition issued in this cause, having been heretofore returned, and the usual proclamation having been made, and the default of all persons being duly entered, it is thereupon on motion of Henry A. Wise, Esq., Attorney for the United States, ordered, sentenced, and decreed, by the Court, now here, and His Honor the District Judge, by virtue of the power and authority in him vested, doth hereby order, sentence and

decree, that the goods, wares, and merchandise above mentioned be, and the same accordingly are, condemned as forfeited to the United States.

And upon like motion it is further ordered, sentenced, and decreed that the Clerk of this Court issue a writ of Destruction to the Marshal of the District, returnable on the first Tuesday of April next.

C. M. HOUGH, *U. S. District Judge.*

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

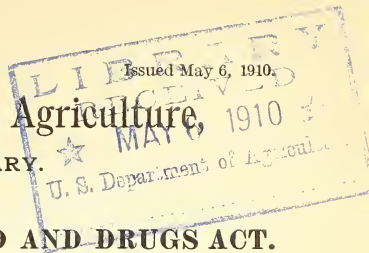
JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 5, 1910.*

O

United States Department of Agriculture,

OFFICE OF THE SECRETARY.



NOTICE OF JUDGMENT NO. 273, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF POWDERED MILK.

On or about July 9, 1909, the Ekenberg Milk Products Company, Cortland, N. Y., shipped from the State of New York to the State of Missouri ten barrels of powdered milk. Analyses of samples of this product, made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated and misbranded within the meaning of the Food and Drugs Act, June 30, 1906. As it appeared from the findings of the analyst and report made that the product was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States Attorney for the Eastern District of Missouri. In due course a libel was filed against the said ten barrels of powdered milk, charging adulteration of the product within the meaning of the act, because the product was not powdered milk but a product made from skimmed milk, from which more than 75 per cent of the butter fat had been abstracted; and was misbranded in that the product was labeled "Cremflor Powdered Milk Manufactured by Ekenberg Milk Products Co., Cortland, N. Y.," and, in smaller and inconspicuous type, "Made of Pure Cow's Milk, from which part of the Butter Fats have been removed," which label was false and misleading and tended to deceive and mislead the purchaser into the belief that he was procuring a product made from pure milk, whereas, in fact, it was not made from pure milk, but from skimmed milk from which more than 75 per cent of the butter fat had been abstracted, and, further, in that the product was offered for sale under the distinctive name of another article.

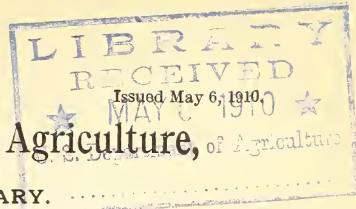
Thereupon W. E. Beckman & Co., St. Louis, Mo., entered an appearance and set up a claim to the product, and on November 1, 1909, the case coming on for final hearing, the goods were released to the claimant upon the filing of a bond conditioned that the product should not be sold in violation of the laws of any State, Territory, or insular possession of the United States.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 5, 1910.*

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United States Department of Agriculture, of Agriculture

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 274, FOOD AND DRUGS ACT.

MISBRANDING OF VINEGAR.

On or about October 26, 1909, The Harbauer-Marleau Company, Toledo, Ohio, shipped from the State of Ohio to the State of Missouri forty-two barrels labeled: "Sweet Home Brand Fermented Apple Cider Vinegar Made for Goddard Grocery Co. of St. Louis, Mo." Analysis of samples of this product, made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act, June 30, 1906. As it appeared from the findings of the analyst and report made that the product was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States Attorney for the Eastern District of Missouri. In due course a libel was filed against the said forty-two barrels of vinegar, charging misbranding within the meaning of the act, in that they were labeled "Sweet Home Brand Fermented Apple Cider Vinegar," which label was false, misleading, and deceptive, in that the product was not pure cider vinegar but a substance consisting of cider vinegar to which had been added a foreign material high in reducing sugars and artificially colored in imitation of genuine apple cider vinegar; and further, in that the product was offered for sale under the distinctive name of another article.

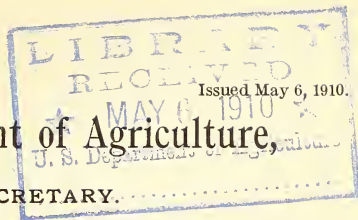
Thereupon the Goddard Grocery Company entered an appearance as claimant of the product in question, and, on June 7, 1909, the case coming on for hearing, the goods were released to said claimant on filing a bond conditioned that the product was not to be sold in violation of the laws of any State, Territory, or insular possession of the United States.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 6, 1910.*





United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 275, FOOD AND DRUGS ACT.

MISBRANDING OF COFFEE.

On or about October 12, 1908, and October 30, 1908, the C. F. Blanke Tea & Coffee Company, St. Louis, Mo., shipped from the State of Missouri to the State of Oklahoma and the State of Pennsylvania, respectively, consignments of a food product labeled:

On front of carton—

“One Pound Net weight Blanke Coffee Co. Dutch Moka A Bourbon Blend Select Roasted Coffee;”

On back of carton—

“Dutch Moka A Bourbon Blend Coffee This has no reference to Arabian Mocha but as the name implies, is a perfectly balanced combination of fine old mellow varieties with choice Bourbon Santos, which means Mocha Coffee transplanted in Santos;”

And on or about August 15, 1908, the said C. F. Blanke Tea & Coffee Company shipped from the State of Missouri to the State of Arkansas a consignment of food product labeled:

“Blanke’s Grant Cabin Blend Coffee Combination of Mocha, Java, and other Superior Grades C. F. Blanke Tea & Coffee Co., St. Louis, Mo.”

Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analysts and reports thereon indicated that the products were misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded the C. F. Blanke Tea & Coffee Company, and the parties from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with statements of the evidence upon which to base prosecutions. In due course a criminal information was filed in the District Court of the United States for the Eastern District of Missouri, charging the above shipments and that the products were misbranded, in that one was labeled “Dutch Moka A Bourbon Blend Select Roasted

Coffee," whereas, in fact, it was South American coffee which had no Bourbon or Mocha character, and that the word "Moka" was merely a misspelling of the word "Mocha," and was further misbranded, in that the product was offered for sale under the distinctive name of another article; and the other was labeled "Blanke's Grant Cabin Blend Coffee Combination of Mocha, Java and other Superior Grades," which statements were false, misleading, and deceptive, in that the product did not contain any Mocha or Java Coffee, as stated on the label, but was a combination of other and inferior coffees, and was further misbranded, in that the product was offered for sale under the distinctive name of another article.

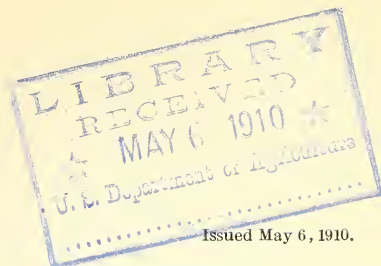
On February 15, 1910, the defendant entered a plea of guilty, and the court imposed upon it a fine of \$15.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 6, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 276, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG PRODUCT—"ANALGINE TABLETS."

On or about January 25, 1909, George W. Burns, trading as The Analgine Tablet Company, Bernardsville, N. J., shipped from the State of New Jersey to the State of Michigan a consignment of a drug labeled "Analgine Tablets." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded The Analgine Tablet Company, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the District of New Jersey, charging the above shipment and that the product was misbranded, in that it contained acetanilid and the label did not show the quantity or proportion of such acetanilid contained therein.

On October 25, 1909, the defendant entered a plea of guilty, and the court imposed upon it a fine of \$15.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 6, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 277, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMON FLAVOR.

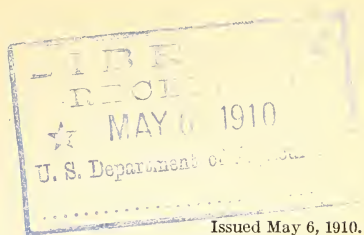
On or about January 22, 1909, the Hallock-Denton Company, Newark, N. J., shipped from the State of New Jersey to the State of Pennsylvania a consignment of a food product labeled: "The Bon Ton Concentrated Imitation Lemon Flavor containing Pure Oil of Lemon fortified with Citral Harmless Vegetable Color, Serial No. 1825 Hallock-Denton Co., Newark, N. J." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded the Hallock-Denton Company, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the District of New Jersey, charging the above shipment and alleging in the first count that the product was adulterated within the meaning of the Act, in that it contained an added poisonous ingredient, namely, methyl alcohol, and alleging in the second count that it was misbranded within the meaning of the act, in that it was labeled "Concentrated Imitation Lemon Flavor containing Pure Oil of Lemon fortified with Citral Harmless Vegetable Color," which statements were false and misleading, in that the product did not contain any oil of lemon, and did not contain a harmless vegetable color, but was colored with a coal tar dye.

On November 8, 1909, the defendant entered a plea of non vult to the second count, and the court imposed upon it a fine of \$50.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., April 7, 1910.



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 278, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

On or about February 20, 1908, and December 19, 1908, R. M. Hughes & Company, of Louisville, Ky., shipped from the State of Kentucky to the States of Alabama and North Carolina, respectively, consignments of a food product labeled: "Monogram Blend Vinegar R. M. Hughes & Co., Louisville, Ky." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analysts and reports thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded R. M. Hughes & Company, and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, together with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed in the District Court of the United States for the Western District of Kentucky, charging the said shipments and alleging in the first count that the product contained in the first shipment was misbranded in that it was labeled "Monogram Blend Vinegar," which statement was false, deceptive, and misleading, in that the product was not a blend, that is to say, was not a mixture of like substances to vinegar but consisted in whole or in part of a mixture of distilled vinegar with unfermented apple juice or some foreign material high in reducing sugars and was artificially colored; and further alleging that it was adulterated, in that there had been mixed and packed with it, so as to reduce or lower or

injuriously affect its quality or strength, water and unfermented apple juice or a foreign material high in reducing sugars and distilled vinegar or dilute acetic acid, and that it was artificially colored in a manner to conceal its inferiority; and further alleging that the product contained in the second shipment was misbranded, in that it was labeled "Monogram Vinegar," which statement was false, misleading, and deceptive, in that the product was not a blend but was a mixture of dilute acetic acid and vinegar and artificially colored in a manner to conceal its inferiority, and was adulterated, in that there had been mixed and packed with it, so as to reduce or lower or injuriously affect its quality or strength, acetic acid and it had been artificially colored in a manner to conceal its inferiority.

On March 10, 1910, the defendant entered a plea of guilty to the first count of the information, and the court imposed a fine of \$25.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 7, 1910.*

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F. & D. Nos. 1280 and 1284.
I. S. Nos. 8449-b and 3563-b.



Issued May 6, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 279, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMONADE POWDER AND ORANGEADE POWDER.

On or about September 28, 1909, and August 15, 1909, respectively, Charles T. Morrissey, Chicago, Ill., doing business under the name and style of The Columbia Manufacturing Company, shipped from the State of Illinois to the State of Pennsylvania consignments of food products labeled, respectively: "Crescent Lemonade Powder Colored Delicious Cooling and Harmless;" and "Crescent Orangeade Powder Colored Delicious Cooling and Harmless." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the products were adulterated and misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded The Columbia Manufacturing Company, and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course criminal informations were filed in the District Court of the United States for the Northern District of Illinois charging the above shipments and that the products were adulterated, in that citric acid had been substituted wholly or in part for the genuine article and had been mixed and packed with it in a manner to reduce, lower, and injuriously affect its quality and strength, and they had been artificially colored in a manner to conceal inferiority; and were misbranded, in that they were labeled "Crescent Lemonade Powder" and "Crescent Orangeade Powder," which

statements were false and misleading, in that they would lead a purchaser to believe that the products were obtained from lemons and oranges, respectively, whereas, in fact, the products were imitations, consisting almost entirely of citric acid, and artificially colored and flavored.

On March 18, 1910, the defendant entered a plea of guilty to each information and was fined \$10 in each case.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 7, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 280, FOOD AND DRUGS ACT.

MISBRANDING OF SALT.

On or about January 27, 1910, and February 8, 1910, the Inland Crystal Salt Company, Salt Lake City, Utah, shipped from the State of Utah to the State of Washington, fifteen hundred and fifty (1,550) sacks of salt. Analyses of samples of this product, made by the Bureau of Chemistry, United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act, June 30, 1906. As it appeared from the findings of the analyst and reports made that the shipments were liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Washington.

In due course a libel was filed against the said fifteen hundred and fifty sacks of salt, charging that they were misbranded in that they were labeled "Granulated Liverpool Dairy Salt Factory filled Manufactured by Inland Crystal Salt Co., Salt Lake City," with a stamp or branded picture of a crown above said label, with the words "Liverpool Dairy Salt" printed in large and more prominent letters than the other words in the brand, which label was false, misleading, and deceptive in that it tended to mislead the purchaser into the belief that the product was a foreign product, from Liverpool, England, whereas, in fact, it was not salt from Liverpool, England, but salt manufactured and produced at Salt Lake City, Utah.

Thereupon the Inland Crystal Salt Company, and the Powell-Sanders Company, of Spokane, Wash., entered their appearance, filed an answer to the libel, waived the time of hearing, and submitted the case to the court upon libel and answer.

On March 14, 1910, the court rendered its decree of condemnation and forfeiture, in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE EASTERN DISTRICT OF WASHINGTON, EASTERN DIVISION.

UNITED STATES OF AMERICA, *Plaintiff*,

vs.

FIFTEEN HUNDRED AND FIFTY SACKS OF SALT, EACH CONTAINING FIFTY pounds, labeled and branded "Granulated Liverpool Dairy Salt, Factory filled, Manufactured by Inland Crystal Salt Co., Salt Lake City," <i>Defendant.</i>	}	No. 858
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DECREE.

Now, on this day, this cause coming on for hearing upon the libel filed by the plaintiff and the answer filed by the Powell-Sanders Company, a corporation, and the Inland Crystal Salt Company, a corporation, and it appearing to the court that the Inland Crystal Salt Company, of Salt Lake City, State of Utah, are the manufacturers and shippers of the said salt described in said libel, and that the Powell-Sanders Company, a corporation, of Spokane, Washington, is the present owner of said salt and that no other person or corporation has any interest in or claim thereto, and the said Inland Crystal Salt Company and the Powell-Sanders Company, corporations, having by their answer filed herein, waived the time of hearing and having admitted in their said answer the allegations contained in the libel of information, and having therein submitted to the Court for its determination the matters complained of in said libel, and the Court having considered the matters set out and alleged in said libel and the answer of the respondents filed herein, finds that the allegations contained in said libel are true as therein set out and alleged.

That the salt described in said libel, to wit: Fifteen hundred and fifty (1550) sacks, was shipped by interstate commerce from Salt Lake City, Utah, by the Inland Crystal Salt Company, to Powell-Sanders Company, in the City of Spokane, and that each and every sack thereof, to wit: Fifteen hundred and fifty (1550) sacks, was and is branded and labeled as follows, to wit: "Granulated Liverpool Dairy Salt, Factory Filled, Manufactured by Inland Crystal Salt Co., Salt Lake City" with a stamp or branded picture of a crown above said printed brand, and with the words "Liverpool Dairy Salt" in said label and brand printed in letters larger and more prominent than the other words in said brand, so that the purchaser thereof would be led to believe that said sacks or bags contained Granulated Liverpool Dairy Salt, to wit: (Dairy Salt from Liverpool, England), when, in truth and in fact, said sacks do not contain Liverpool Dairy Salt from Liverpool, England, but do contain salt manufactured and produced at Salt Lake City, in the State of Utah, and being so labeled and branded is in imitation of and under the distinctive name of another article, and being so labeled and branded is labeled and branded so as to deceive and mislead the purchaser and purports to be a foreign product, when it is not so; and the statement in said brand and label, to wit: Liverpool Dairy Salt, is false and misleading; contrary to the form of the statute in such case made and provided, to wit: Act of June 30, 1906 (34 Stats. L. 768), and being so misbranded and labeled the said salt has become liable to seizure, condemnation and forfeiture.

Therefore, it is ordered, adjudged and decreed by the Court, that the said Fifteen Hundred and Fifty (1550) sacks of salt, with their contents, be, and they are hereby declared to be misbranded, in violation of the Act of June 30, 1906, as charged in said libel; and it is further

Ordered, adjudged and decreed that the said fifteen hundred and fifty (1550) sacks of salt, as aforesaid, be, and they are hereby condemned and forfeited, as provided in

the said Act of June 30, 1906, and the Marshal of the United States for the Eastern District of Washington is hereby directed to sell the said fifteen hundred and fifty (1550) sacks of salt, in accordance with and under such terms and conditions as will not violate the provisions of the said Act of June 30, 1906, known as the Pure Food and Drugs Act.

Provided, however, and it is further ordered that if the said Powell-Sanders Company, a corporation, the owner of the said salt, shall pay all of the costs of this libel proceeding and shall execute and file in this cause a good and sufficient bond to the United States of America in the sum of Five Hundred Dollars (\$500), conditioned that said salt shall not be sold or otherwise disposed of contrary to the provisions of the Act of June 30, 1906, known as the Pure Food and Drugs Act, or the laws of any State, Territory, District or insular possession, then the Marshal shall deliver and restore the said fifteen hundred and fifty (1550) sacks of salt to the said owner, the said Powell-Sanders Company, a corporation.

Done in open court this 14th day of March, A. D. 1910.

EDWARD WHITSON,
District Judge.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 7, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 281, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMON FLAVOR.

On or about September 29, 1908, William H. Harrison, doing business under the name of W. H. Harrison & Company, Cincinnati, Ohio, shipped from the State of Ohio to the State of Kentucky a consignment of food product known as "Harrison's Lemon Flavor." M. A. Scovell, Director of the Kentucky Agricultural Experiment Station, Lexington, Ky., acting by authority of the Secretary of Agriculture, caused a sample of the above shipment to be procured and analyzed. As the findings of the analyst and report made indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the said W. H. Harrison & Company were given an opportunity to be heard, and as it appeared after hearing held that the shipment was in violation of said act the said M. A. Scovell reported the facts and evidence to the United States Attorney for the Southern District of Ohio. In due course a criminal information was filed in the District Court of the United States for the Southern District of Ohio, charging the above shipment, and that the product was misbranded within the meaning of the act, in that it was labeled on front of bottle: "Use Harrison's Lemon Flavor, W. H. Harrison & Company, Cincinnati," and on back thereof, "This lemon flavoring is made of double proof spirits, distilled water, and the best oil of lemon, with a trace of harmless coloring," whereas, in fact, the product was a terpeneless extract of lemon artificially colored and contained no oil of lemon, and was therefore not a true lemon flavor or extract. On March 3, 1910, the defendant entered a plea of *nolo contendere*, and the court imposed upon him a fine of \$5.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., April 7, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 282, FOOD AND DRUGS ACT.

ADULTERATION OF SARDINES.

On or about December 30, 1909, B. O. Bowers Company, Lubec, Me., shipped from the State of Maine to the State of Maryland 250 cases of sardines. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States Attorney for the District of Maryland. In due course a libel was filed against the said 250 cases of sardines, charging adulteration of the product in that they contained tin, and praying seizure, condemnation, and forfeiture. No claimant having appeared, on February 24, 1910, the case came on for final hearing and the court rendered its decree of condemnation and forfeiture in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

UNITED STATES OF AMERICA

v.

TWO HUNDRED AND FIFTY CASES OF SARDINES.

Upon the foregoing motion of the United States, by John C. Rose, its Attorney, it appearing to the District Court of the United States for the District of Maryland that no one has appeared showing cause why a decree of condemnation should not be passed as prayed in the information filed in this cause, although due notice for all such persons was duly given and the time within which cause must be shown has expired—

Now, therefore, it is hereby ordered, adjudged and decreed by the District Court of the United States for the District of Maryland, this 24th day of February, 1910, that the property mentioned in the said information be, and the same is, hereby condemned, and all right, title and interest of any and all persons therein are hereby adjudged and ordered to have been, and they are, hereby forfeited to the said United States of America.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY

NOTICE OF JUDGMENT NO. 283, FOOD AND DRUGS ACT.

MISBRANDING OF MAPLE SYRUP.

On or about December 3, 1908, the Western Reserve Syrup Company, Cleveland, Ohio, shipped from the State of Ohio to the State of Illinois 68 cases of syrup labeled: (On cases) "Western Reserve Ohio Blended Maple Syrup. Guaranteed Absolutely Pure, Shipped by Western Reserve Syrup Co., Cleveland, Ohio." (On bottles) "Western Reserve Ohio Blended Syrup, Western Reserve Company, Cleveland, Ohio, Blenders of Fancy Maple Syrup and Maple Sugar." Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure, under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Illinois. In due course a libel was filed against the said 68 cases of syrup, charging misbranding of the product within the meaning of the act, in that the labeling of the cases as "Western Reserve Ohio Blended Maple Syrup, Guaranteed absolutely pure, shipped by Western Reserve Syrup Co., Cleveland, Ohio," and the labeling of the bottles as "Western Reserve Ohio Blended Syrup, Western Reserve Company, Cleveland, Ohio, Blenders of Fancy Maple Syrup and Maple Sugar," was false and misleading and tended to deceive and mislead the purchaser because the bottles did not contain maple syrup nor a blend of maple syrup, as they purported to contain, but did contain a mixture or compound composed largely of refined cane sugar flavored with extract of maple wood. To this libel the defendant demurred, and on October 1, 1908, the case came on for a hearing on the demurrer, and the court entered its decree sustaining the demurrer in substance and form as follows:

WRIGHT, *District Judge*.

This is a libel presented by the United States against Sixty-Eight Cases of Syrup under the provisions of Food and Drug Act June 30, 1906, c. 3915, 34 Stat. 768 (U. S. Comp. St. Supp. 1907, p. 928). The libel charges that the cases of syrup were shipped

from Cleveland, Ohio, to Danville, Ill., and that 48 of them contained each one dozen bottles, and 20 of them contained each two dozen bottles, of syrup; that the cases were branded and labeled "Western Reserve Ohio Blended Maple Syrup, guaranteed absolutely pure, shipped by Western Reserve Syrup Company, Cleveland, Ohio;" and that the bottles were labeled and branded "Western Reserve Ohio Blended Syrup, Western Reserve Syrup Company, Cleveland, Ohio, Blenders of Fancy Maple Syrup and Maple Sugar." It is further charged in the libel that the cases and bottles were misbranded in violation of the act of Congress to which reference has been made, subjecting the property to condemnation as provided in said act, for the reason that the cases and bottles do not contain maple syrup, or a blend of maple syrup, but do contain a mixture or compound largely of refined cane sugar flavored with an extract of maple wood, and that the labeling before mentioned is misleading and false, so as to mislead the purchaser, and so as to offer the contents for sale under the distinctive name of another article. The goods were shipped to the Webster Grocery Company, doing business in Danville, Ill., and by this proceeding seized, and are now in the custody of the marshal. The Western Reserve Syrup Company, of Cleveland, Ohio, the manufacturer, shipper, and seller of the goods, has appeared by its attorney in this proceeding and filed its demurrer to the libel; and the court, having heard the argument of counsel, thereupon took the case under advisement and for future determination.

In the argument at bar of the case it was contended for the respondent that there is a distinct and substantial difference in the labeling upon the cases and that upon the boxes; that in the former the word "Maple" is used, and in the latter, the case of the bottles, that word is omitted, as a qualifying word in the description of the syrup. Without again quoting the words of the labeling, but referring again to them as above set out in this opinion, it will be seen that, while the word "Maple" is not used as a qualifying word to syrup, yet further on in the words of the label it is found that respondent describes itself as blenders of "Fancy Maple Syrup and Maple Sugar," so that, when all the words of the label put upon the bottles are seen, and its full meaning comprehended, I think the same meaning was intended in the use of both labels, and from either of them, that upon the cases and that upon the bottles, a person of ordinary intelligence, after reading them or either of them, would infer the same meaning that the bottles, as well as the boxes, contained blended maple syrup. So it seems to me that the contention of the respondent that the label upon the boxes, which alone was intended to induce the purchasers, even conceding this, is without force. It then being determined that the labeling upon the cases and upon the bottles mean the same thing, namely, that each contained blended maple syrup, it only remains to decide whether, in view of the other averments of the libel, a violation of the statute is shown.

If the brands or labels correctly or truthfully disclose the contents of the cases and bottles, and no poisonous or deleterious ingredients are apparent, there can, I am persuaded, be no violation of the law, and this action could not be supported. There is no claim that poisonous or deleterious ingredients entered into the compound. The libel avers it was not maple syrup. The labels do not purport to state that the contents of the boxes and bottles was maple syrup; but, as said before, both labels represent the same fact—that the contents of the boxes and bottles was blended maple syrup. The libel avers that the cases and bottles do not contain a blend of maple syrup, and then specifically states they do contain a mixture or compound largely of refined cane sugar flavored with an extract of maple wood. The demurrer of the respondent to the libel admits all the facts well pleaded in the libel, and, while it is stated by the libel that the boxes and bottles do not contain a blend of maple syrup, the following statement in the libel, that the contents consisted of a mixture or compound largely of refined cane sugar flavored with an extract of maple wood, renders the previous negation of a blend of maple syrup nugatory as a fact stated, but leaves it as a mere

conclusion of the pleader, that is not admitted by the demurrer. So it seems to me the case resolves itself to the single question whether a mixture or compound largely of refined cane sugar flavored with an extract of maple wood is blended maple syrup.

The plain and manifest object of the statute under consideration is to protect the purchasers and consumers of drugs and foodstuffs from fraud and imposition in the purchase or consumption of such articles under false representations, and to insure that the commodities are such as they are represented to be. If the brands or labels upon the goods in question were truthful, and such as the law permitted upon such goods as they actually were, then there was no violation of the law, and the goods were wrongfully seized, and should be returned to the person or persons from whom they were taken. The proviso to section 8 of the statute under which this libel is being prosecuted provides in legal effect, amongst other things, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale; and the term "blend" so used, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only.

I have already said that the brands or labels in question plainly indicate that the article of food, the syrup in this case, was a blend of maple syrup, and the statute itself declares that the term "blend" shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients, used for the purpose of coloring and flavoring only. I think I may take judicial notice of all that an ordinarily intelligent person knows, and in doing this I know that food syrup is a saccharine solution of a superior quality, frequently called molasses, and it may be made of any of the various sugars of commerce, such as cane, beet, or maple. These sugars are alike, in that they are saccharine. The statute defines a blend of anything to be the mixture of like substances not excluding the flavoring. In the case presented the mixture is cane sugar flavored with extract of maple wood. It seems to me no argument is necessary to prove that all food sugars are of like substances, and to them or any of them add the flavoring extract of maple wood and thereby is produced the very blend contemplated by the exception of the statute I have endeavored to point out.

Even without this plain exception provided for by the law itself, no ordinarily intelligent person could be deceived by the labels in question into buying the articles so labeled for real maple syrup. The word "blend" is clearly used, both as to the articles and their manufacture, and of its own clear import indicates a mixture and imitation. Entertaining the views I have expressed, it follows that I am of the opinion the libel is insufficient in law, and the demurrer will therefore be sustained.

Let an order be prepared sustaining the demurrer, dismissing the libel, and awarding a return of the property, without costs.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of the United States District Courts and of the United States Circuit Courts of Appeals adverse to the Government will not be accepted as final until acquiescence shall have been published.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 284, FOOD AND DRUGS ACT.

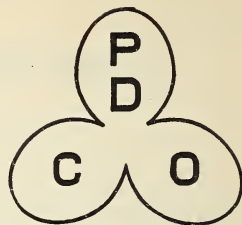
ALLEGED MISBRANDING OF DANDERINE.

On or about June 17, 1908, in pursuance of a report made by the Secretary of Agriculture to the United States Attorney for the Northern District of West Virginia, there was filed in the District Court of the United States for the said district a libel under section 10 of the Food and Drugs Act of June 30, 1906, by which proceeding it was sought to confiscate 65 casks of a liquid extract called "Danderine," for the reason that the product was misbranded in not having a statement on the casks containing said product of the quantity or proportion of alcohol contained therein. Upon the filing of said libel and issuance of process the Knowlton Danderine Company appeared and intervened as owner and resisted the confiscation. The claimant waived trial by jury and the case was tried by the court upon an agreed statement of facts, which is as follows:

The said Knowlton Danderine Company is a corporation organized under the laws of the state of Illinois, having a warehouse, laboratory, and finishing department in Wheeling, in the state of West Virginia, and is the proprietor of a preparation for the hair which it markets in three-ounce, six-ounce, and twelve-ounce bottles, under the trade name of "Danderine," the formula of which is a trade secret and comprises liquid extracts and other ingredients. Parke, Davis & Co., who are mentioned in the said libel as shippers, are manufacturing pharmacists at Detroit, in the state of Michigan, and are under contract with the said Knowlton Danderine Company, the respondent in this proceeding, to compound the said formula and to cause the same to be transported and delivered in bulk in car load lots to the respondent at Wheeling, and no sale of the said danderine is made to the public or any outside purchasers until the said casks are emptied and the contents thereof placed in the properly marked bottles. The said casks are made of wood bound with iron hoops and shipped like barrels and for the purposes of safe transportation a sufficient number of casks, each holding about 50 gallons, are used, which, when emptied by the respondent, are returned to the said Parke, Davis & Co., to be again refilled and shipped. Each and every one of the 65 casks mentioned in said libel contained a drug product accurately compounded in accordance with said formula, and said drug product contained an average of 10 per centum of alcohol. All of the said casks are marked in the same manner, with the exception that the figures, some of which show the number of gallons contained therein, and others the number of casks, are marked in the same man-

ner when shipped, and are marked wholly upon one end of the cask. Varying as in figures as aforesaid, each cask is marked as follows:

49 1/2
S 46022
63
Wheeling Terminal
19th St. Delivery
Knowlton Danderine Company
Wheeling, W. Va.
505 lbs.



There are no other marks, brands, or labels upon the said casks or any of them, and the casks which are referred to in the said libel were marked in the manner hereinbefore indicated and had no other marks, brands, or labels upon them. When the contents are removed from the said casks they are placed in bottles, and on each bottle is a printed label containing in plain letters the words "Danderine Scalp Tonic, Alcohol 10 per cent."

The said respondent has a spur track running into its building at Wheeling, upon which each car is left as soon after its arrival as possible, and the casks are removed from the car promptly by the respondent, which bottles and labels the contents, which process of bottling and labeling is known as the finishing process, and in pursuance of this custom the respondent had before the seizure of the casks, which was made in this proceeding, emptied 59 of the said 65 casks, and was engaged in bottling and labeling the same, and would have continued so doing until all of the 65 casks were bottled and labeled but for the seizure in this proceeding of the 6 casks, which had not been emptied or bottled, though the last-mentioned 6 casks had been removed from the car in which they had been shipped and received.

The 65 casks mentioned in the said libel were shipped by Parke, Davis & Co. to the respondent by boat to Sandusky, in the state of Ohio, where they were transferred to a car which contained nothing else, and the said last-mentioned car was forthwith transferred from Sandusky, in the state of Ohio, to Wheeling, in the state of West Virginia, and was delivered upon the premises and in the building of the respondent, and was emptied at the time of the seizure of the said 6 casks.

The libel filed in this proceeding is based upon an examination of the samples of the contents of the said casks obtained from the respondent a few days prior to the filing of the said libel by a food and drugs inspector from the Department of Agriculture of the United States. The Secretary of Agriculture did not cause notice to the effect that it appeared from such examination of the said sample that the same was adulterated or misbranded to be given to the respondent as the owner and claimant thereof, or to any one else before the matter was directed to the attention of the District Attorney, or before this proceeding was begun and the casks seized by the marshal.

After the United States marshal had seized 6 of the 65 casks of liquid extracts mentioned in the said libel, he permitted a food and drugs inspector of the Department of Agriculture to open one or more of the said casks of liquid extracts and to transfer and remove therefrom about 3 gallons of the contents thereof.

The situation and conditions as shown by the facts herein set forth were substantially the same from the time when the 65 casks involved in this proceeding were originally shipped from Detroit down to and including the present time.

On May 25, 1909, judgment was rendered by the United States District Court in favor of the claimant. The opinion in the case delivered by Judge Dayton, is as follows:

DAYTON, *District Judge* (after stating the facts as above). The defences relied on are: (a) That the food and drugs act (Act June 30, 1906, c. 3915, 34 Stat. 768, U. S.

Comp. St. Supp. 1907, p. 928) does not require a drug product to be labeled, nor if unlabeled, to bear any statement respecting the amount of alcohol contained, but, if labeled, the label must contain the statement. The casks in controversy were not labeled, therefore not subject to the provisions of the act. (b) The libel is predicated upon an examination of specimens under section 4 of the act; but the Secretary of Agriculture did not cause any notice to be given to the party from whom the samples were obtained, nor afford such party any opportunity to be heard. (c) The goods seized were, at the time of seizure, no longer in the "package" or condition in which the importer received them, but had become merged with the property of the state, and were therefore not under the operation of the interstate commerce clause of the Constitution or of any law subsisting by virtue of such clause. The "original package" in this case was the car which was delivered upon the premises and into the possession of the defendant, and which had been entirely emptied of its contents before seizure of the 6 casks taken upon the warrant issued in this case. (d) Seizure of 6 casks upon a warrant for 65 casks was not authorized or legal. (e) In no event is a food or drug product subject to libel proceedings under section 10 of this act unless it is being or has been transported into another state for the purpose of sale. In this case the product seized was transported in bulk for the distinct purpose of being "finished" or, to use a nontechnical term, of being bottled and labeled; and it is admitted that, when ready for sale, the salable package bore a label containing a lawful statement respecting content of alcohol.

In support of the first ground of defence, it is contended that "the courts of the United States, in determining what constitutes an offense against the United States must resort to the statutes of the United States enacted in pursuance of the Constitution." In *re Kollock*, 165 U. S. 526, 17 Sup. Ct. 444, 41 L. Ed. 813. That "regulations prescribed by the President and by the heads of the departments, under authority granted by Congress, may be regulations prescribed by law, so as lawfully to support acts done under them and in accordance with them, and may thus have, in a proper sense, the force of law; but it does not follow that a thing required by them is a thing so required by law as to make the neglect to do the thing a criminal offense in a citizen, where the statute does not distinctly make the neglect in question a criminal offense." *U. S. v. Eaton*, 144 U. S., 688, 12 Sup. Ct. 767, 36 L. Ed. 591. And that, therefore, this court, in construing this statute, cannot be influenced by any departmental rules or regulations prescribed for its enforcement, but can look alone to the terms of the statute, penal in character, to ascertain whether or not the owner of these casks of liquid can be held either liable to criminal prosecution or to confiscation of its property. In construing the terms of the statute, it is further insisted that a criminal offense cannot be created by implication, but only by direct and positive terms. Granting at once these several propositions to be sound, the crucial question is, does the food and drugs act in express terms require drug products to be labeled? The argument of counsel, that Congress intended by this act, not to correct the evil of failing to label, but of falsely and fraudulently labeling, and therefore drug products, even when put up in packages suitable for retailing, but which bear no labels, are not within the misbranding provisions of the act, is ingenious but untenable, and wholly refuted by the express terms of the act. The first section of it makes it "unlawful for any person to manufacture within any territory or the District of Columbia any article of food or drug which is adulterated or misbranded" within the meaning of the act. This is an unqualified prohibition against the manufacturing itself, so far as the Congress had the power to prohibit; that is, in these parts of the country over which it had full control and jurisdiction. Section 2 provides that:

"The introduction into any state or territory or the District of Columbia from any other state or territory or the District of Columbia or from any foreign country, or shipment to any foreign country, of any article of food or drugs which is adulterated or misbranded, within the meaning of this act, is hereby prohibited."

Here was the exercise to the fullest limit, by Congress of its power, under the interstate commerce clause of the Constitution, to prevent adulterated and misbranded food and drug products from being placed upon the markets and sold as pure and genuine ones in the several states by expressly banishing them from lawful interstate commerce. In view of these express provisions, I cannot hold with counsel that the evil intended by Congress to be met was simply the false and deceptive branding of drug products and not the sale thereof. The question therefore, recurs to whether this act in such direct terms requires the labeling of drug products offered for sale in the original package as to subject one failing to do so to a criminal prosecution or to confiscation of the property. The two sections from which I have quoted expressly provide for criminal prosecution and penalties for their violation. Sections 6, 7, and 8 of this act define the terms "drug" and "food" as used; what articles of each shall be deemed adulterated, and what articles of each shall be deemed misbranded. It is provided that:

"The term 'misbranded' as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular."

And further, "if the package fail to bear a statement on the label of the quantity or proportion of any alcohol," and other specified substances contained therein. Counsel insist that these provisions do not directly require a label, and that in order to warrant prosecution the provision should have been in effect:

"For the purposes of this act an article shall also be deemed to be misbranded: In case of drugs * * * * if the package or other container thereof fail to bear a label."

I think this is too technical, even under the strict rules governing the construction of criminal statutes. Suppose the provision had read "if the package fail to bear a statement on a label of the quantity of alcohol," etc., would it not as well meet the view of counsel? A label is defined by Webster to be "a slip of paper, parchment, &c., affixed to anything, and indicating the contents, ownership, destination," etc. The use of the word itself, therefore, carries the meaning that it is a descriptive paper affixed to the package, and in express terms the act requires the descriptive matter borne by the paper to include the statement of how much alcohol, etc., is contained in the package. It does not seem to me that the ruling in the case of *United States v. Twenty Boxes of Corn Whiskey*, 133 Fed. 910, 67 C. C. A. 214, can be made at all applicable here. There an entirely different character of statute was being construed. It did not attempt to bar from interstate commerce the article unbranded, but only to bar the shipment "under any other than the proper name or brand known to the trade," of spirituous or fermented liquors or wines. This statute was unquestionably passed to prevent fraud upon the revenue, and not as a regulation of interstate commerce. It follows that the first ground of defense must be unavailing.

The second, to the effect that the Secretary of Agriculture did not cause notice to be given the owner and allow hearing before seizure has been directly decided in *United States v. Fifty Barrels of Whisky* (D. C.) 165 Fed. 966, where Judge Morris, in overruling an exception to the libel based on this ground, says:

"Such seizures are not unusual, and it is plain that, if the harshness were conceded, it would not justify the court in reading into the law a limitation which it does not contain. The act provides two different proceedings to enforce its provisions. One is by criminal proceedings in personam; the other is by a proceeding in rem, by seizure of the offending thing itself, and forfeiture if found to be violative of the law. In this latter case there is no provision for a preliminary examination."

With this construction of the statute I am in entire accord, and defense on this ground must be overruled.

Nor do I think sound the third ground of defense, to the effect that in this case the car arriving at Wheeling and shunted into the private side track of respondent was the "original package" and not the several casks in which the liquid was contained. The term "original package" as employed by law, admits of no precise definition applicable to all. Generally, it is said to be a parcel, bundle, bale, box or case made up of or packed with some commodity with a view to its safety and convenient handling and transportation. It does not necessarily mean that goods shall be inclosed in a tight or sealed receptacle. It relates wholly to goods as prepared for transportation, and has no necessary reference to the package originally prepared or put up by the manufacturer. Indeed, the idea of the "original package" may well be made to cover certain forms of property which do not ordinarily admit of being packed or incased in any other manner than in the car or vessel in which they are transported, such, for instance, as steel beams, threshing machines, and other bulky articles. *Cook v. Marshall County*, 119 Iowa, 384, 93 N. W. 372, 373, 104 Am. St. Rep. 283. This definition has been quoted as being the most favorable I have found to the contention of respondent in this case. Many others have been carefully collated in 6 Words & Phrases, 5059, and the term has been fully discussed in *Austin v. Tennessee*, 179 U. S. 343, 21 Sup. Ct. 132, 45 L. Ed. 224. Without prolonging discussion, it seems to me clear that in this case the cask is the "original package," for the very simple reason that the car was wholly incompetent to "package" the liquid itself; the cask was a complete entity of itself, not connected or bound up with any other article, but capable of and in fact containing some 50 gallons of this liquid, an amount capable thereby of being safely and conveniently handled and transported; each cask was marked to the consignee, and if separated from the car was capable of shipment independent thereof without either loss or inconvenience; the casks were shipped independently from Detroit to Sandusky by vessel, and then transferred to the car for shipment to Wheeling, their final destination. And holding the cask to be the "original package," it becomes unnecessary to consider to any extent the fourth ground of defense, that a seizure of 6 casks under a warrant for 65 casks was unlawful. The warrant being for the whole shipment, the government, if it had the right of seizure at all, could take the whole or any part it could find in the original packages.

This brings us to the fifth and last defense relied upon, to the effect that this liquid extract was not shipped in these casks for the purpose of sale thus in bulk, but was so shipped to the owner thereof from one state to another for the purpose of bottling into small packages suitable for sale, and when so bottled, it is admitted the bottles were labeled so as to express the content of alcohol and comply with the requirements of the act. A careful analysis of the provisions of the act has convinced me that this defense must be sustained. The language of the statute is:

"Any person who shall ship or deliver for shipment from any state or territory or the District of Columbia to any other state or territory or the District of Columbia, or to a foreign country, or who shall receive in any state or territory or the District of Columbia from any other state or Territory or the District of Columbia, or foreign country, and having so received shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver to any other person any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or the territories of the United States any such adulterated or misbranded foods or drugs, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor." Section 10.

Again:

"Any article of food, drug or liquor that is adulterated or misbranded within the meaning of this act, and is being transported from one state, territory, district, or insular possession of the United States, or if it be imported from a foreign country for sale, or if it is intended for export to a foreign country, shall be liable to be proceeded against in any District Court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation."

These provisions must be construed strictly in favor of the accused. So construed, I am persuaded they must be held to mean that any one owning an adulterated or misbranded food or drug product who ships to another in another state such product is guilty; that any one having received such product so shipped from another state by the owner or seller thereof, who shall, in the state where so received, deliver or offer to deliver such product to another in the original package, for pay or otherwise, shall be guilty; that any person who has received such product from any other state, who sells or offers it for sale, whether in the original package or not, in the District of Columbia or the territories, is liable. Congress had no power except in the District of Columbia and the territories to prohibit one from manufacturing adulterated food and drug products; it had no power to prevent one anywhere from personally consuming such products; it did have power to suppress the manufacture of such in the District of Columbia and the territories, and by this act has done so; it had the further power to restrict in the course of commerce the transportation from state to state of such products, and it has done so; it had power, after such product was received from another state, to restrict its sale in the original package, and it has done so. It did not, in my judgment, have power to restrict one from manufacturing in one state such product and removing it from that state to another for the purpose of personal use and not sale, or for use in connection with the manufacture of other articles to be legally branded when so manufactured. The government's inspector was entirely justified in concluding that this shipment in these original package casks was a violation of this act, because they were consigned for shipment by Parke Davis & Company, of Detroit, Mich., to the Knowlton Danderine Company, at Wheeling, W. Va., and they were not branded. It was reasonably to be assumed that Parke, Davis & Company were the owners and sellers, while the Knowlton Danderine Company was the purchaser. From the agreed statement of facts, however, it is apparent that the formula of the preparation is a trade secret; that Parke, Davis & Co. were not the owners of this formula, but only the manufacturing agents, under contract, of the owner, the Danderine Company, and only acted as agent for the owner in directing such shipment to the owner itself of its own property; that such owner did not, "having so received" such product, either "deliver, in original unbroken packages, for pay or otherwise, or offer for delivery to any other person," the same; nor did it "sell, or offer for sale in the District of Columbia or the territories of the United States."

It seems clear that the transportation of this liquid was solely to the bottles made in Wheeling instead of the transportation of the bottles from Wheeling to the liquid manufactured in Detroit, and that it was so bottled in Wheeling and properly branded before any sale or disposition of it was attempted. Under such circumstances I am constrained to hold that the 6 casks must be surrendered to respondent, and the libel dismissed.

From the above judgment, dismissing the libel, libellant appealed to the United States Circuit Court of Appeals for the Fourth Circuit. The case was thereafter heard on appeal by said court, which rendered an opinion affirming the judgment of the lower court on February 1, 1910. The opinion of said court is as follows:

UNITED STATES CIRCUIT COURT OF APPEALS FOURTH CIRCUIT.

THE UNITED STATES, <i>Appellant</i> ,	}
<i>versus</i>	
KNOWLTON DANDERINE COMPANY, CLAIMANT	
of Sixty-five Casks of Liquor Extracts,	
<i>Appellee</i> .	

Appeal from the District Court of the United States for the Northern District of West Virginia, at Philippi.

Submitted December 10, 1909. Decided February 1, 1910. Before Goff and P. Pritchard, Circuit Judges, and Connor, District Judge.

Reese Blizzard, U. S. Attorney, E. M. Showalter, Assistant U. S. Attorney; counsel for appellant, and Henry M. Russell, Henry M. Campbell, and Charles M. Woodruff, counsel for appellee.

GOFF, *Circuit Judge*:

The opinion of the court below, which contains a full statement of the facts, is found in 170 Fed., 449. Appellant assigns as error, in substance that the court below erred in holding that the sixty-five casks of liquid extracts were not prepared, used or shipped in any manner contrary to the laws of the United States, and that the United States had no right through its officers to seize the said casks or any of them.

Under the facts disclosed by the record, we conclude that the court below properly found that even if there was probable cause for making the seizure and filing the libel, the evidence made it plainly appear that the appellee shipped the said casks as its own product, made by its own agent, from the laboratory of said agent at Detroit, Michigan, to the warehouse of the appellees at Wheeling, West Virginia; that said casks of extracts were not intended for sale as shipped, but were to be, at the warehouse mentioned, bottled and labeled as the law requires before being offered for sale. No attempt to evade the law either directly, indirectly, or by subterfuge has been shown it appearing that the manufacturer had simply transferred from one point to another the product he was manufacturing, for the purpose of completing the preparation of the same for the market. Under the circumstances disclosed in this case, having in mind the object of the Congress in enacting the law involved, we do not think the liquid extracts proceeded against should be forfeited. Reaching this conclusion, we do not find it necessary to consider other questions discussed by counsel, and referred to in the opinion of the court below.

We find no error.

Affirmed.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of the United States District Courts and of United States Circuit Courts of Appeals adverse to the Government, until final acquiescence shall have been published, shall not be considered as final.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 285, FOOD AND DRUGS ACT.

ADULTERATION OF CREAM.

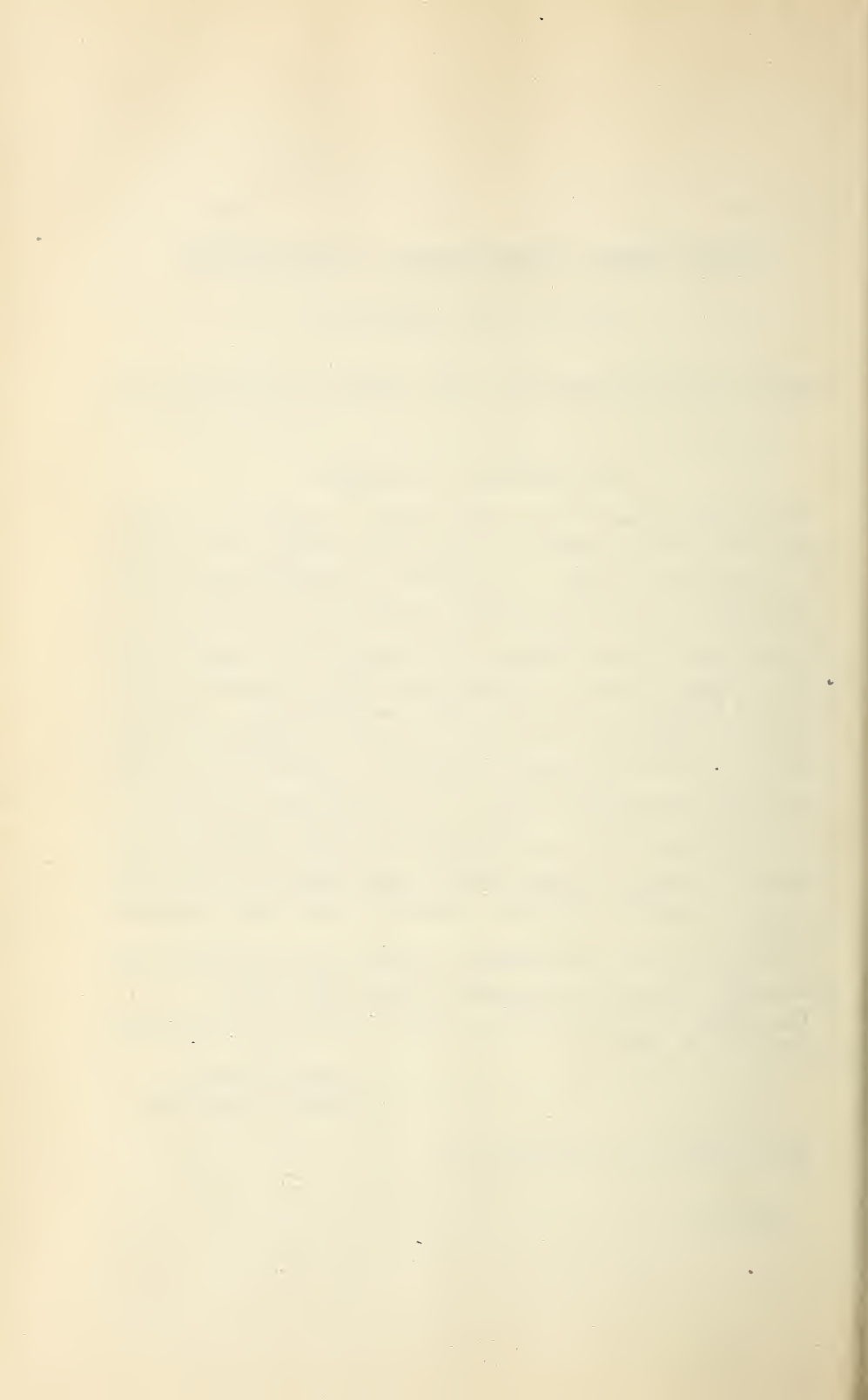
On or about December 16, 1909, Stephen A. Thomas, of Adamstown, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report thereon indicated that the cream was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Stephen A. Thomas was given an opportunity for hearing, and as it appeared after hearing held that the sale was made in violation of the said act, the said health officer reported the facts to the United States Attorney for the District of Columbia. In due course a criminal information was filed in the Police Court of the District of Columbia against the said Stephen A. Thomas, charging that the said cream was adulterated, in that a valuable constituent, butter fat, had been abstracted therefrom.

On March 19, 1910, the defendant entered a plea of guilty to this information and the court imposed upon him a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 286, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

On or about December 29, 1908, the O. L. Gregory Vinegar Company, Paducah, Ky., shipped from the State of Kentucky to the State of Tennessee a consignment of a food product labeled "Wine Sap Brand Pure Apple Cider Vinegar O. L. Gregory Co., Paducah, Ky." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the O. L. Gregory Vinegar Company, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Western District of Kentucky against the Gregory-Wallace Vinegar Company, the O. L. Gregory Vinegar Company having changed its name under the laws of the State of Kentucky in the meantime, charging the above shipment and alleging that the product was adulterated within the meaning of the act, in that dilute acetic acid, and some other substance containing reducing sugars, had been mixed and packed with it so as to injuriously affect its quality, and had been substituted in part for the genuine food product; and was misbranded, in that it was labeled "Pure Apple Cider Vinegar," which statement was false and misleading, as it was not pure apple cider vinegar but contained a dilute solution of acetic acid, and some foreign material containing reducing sugars.

On March 28, 1910, the defendant entered a plea of guilty and the court imposed upon it a fine of \$25.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 287, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

On or about September 2, 1909, William C. Null, of Doubs, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said William C. Null was afforded an opportunity for hearing, and as it appeared after hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States Attorney for the District of Columbia. In due course a criminal information against the said William C. Null was filed in the Police Court of the District of Columbia, charging that the said milk was adulterated, in that there had been mixed and packed with it a substance, water, which reduced and lowered its quality.

On March 23, 1910, the defendant entered a plea of guilty and the court imposed upon him a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 288, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF BLACK PEPPER.

On or about March 4, 1907, and May 17, 1907, respectively, the Calumet Tea & Coffee Company, Chicago, Ill., shipped from the State of Illinois to the State of Montana consignments of a food product known as "Black Pepper." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report made thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Calumet Tea & Coffee Company, and the dealers from whom samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Northern District of Illinois, charging the above shipments and alleging that the product was adulterated within the meaning of the act, in that there had been mixed and packed with it, in a manner to reduce, lower, and injuriously affect its quality and strength, a wheat product, capsicum, and fruit shells, and said substances had been substituted in part for the genuine food product; and was misbranded, in that it was labeled "Spices, Pepper, Calumet Tea & Coffee Co., Chicago," which statement was false and misleading, in that the product was not pepper, but was, in fact, a mixture of ground black pepper and wheat, capsicum, and fruit shells.

To this information the defendant filed a demurrer, and, subsequently, on December 31, 1909, entered a plea of guilty, and the court imposed upon it a fine of \$50.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 289, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

On or about October 3, 1908, and November 13, 1908, Barrett & Barrett, of Chicago, Ill., shipped from the State of Illinois to the State of Indiana and the State of Wisconsin, respectively, consignments of a food product known as "Vinegar." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analysts and reports thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded Barrett & Barrett, and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of section 10 of the act, the Secretary of Agriculture reported the facts to the Attorney General, with statements of the evidence upon which to base prosecutions. In due course criminal informations were filed in the District Court of the United States for the Northern District of Illinois, charging the above shipments and alleging that the product was adulterated, in that in each shipment there had been mixed and packed with it, in a manner to reduce, lower, and injuriously affect its quality and strength, dilute acetic acid and a foreign material high in reducing sugars, and that it had been artificially colored in a manner to conceal its inferiority, and was further adulterated, in that said substances had been substituted wholly or in part for the genuine food product; and was misbranded, in that the product contained in the first shipment was labeled "Allegan Co., Mich. Cider Vinegar 48 gallons 40 Gr.," and that contained in the second shipment was labeled "A. Kichbusch Grocery Co. 48 galls. Apple

Vinegar 4% Acetic Acid 2% Apple Solids Wausau, Wis.,' which statements were false, misleading, and deceptive, and would tend to deceive and mislead the purchasers into the belief that they were procuring, in one case, a cider vinegar, and, in the other case, a cider vinegar containing 2 per cent apple solids, whereas, in fact, the product was not a cider vinegar in either case, but a mixture of a foreign material high in reducing sugars, a dilute acetic acid, and cider vinegar, and was artificially colored in a manner to conceal its inferiority; also the product in the second shipment did not contain 2 per cent of apple solids.

On December 31, 1909, the defendant entered a plea of guilty to each information, and on January 3, 1910, the court imposed a fine of \$25 for each offense.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 290, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF MAPLE SYRUP.

On or about January 29, 1907, the D. B. Scully Syrup Company, Chicago, Ill., shipped from the State of Illinois to the State of Washington a consignment of a food product labeled "Westmoreland New Hampshire Maple Syrup." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the D. B. Scully Syrup Company, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Northern District of Illinois against the said D. B. Scully Syrup Company, charging the above shipment and alleging that the product was adulterated within the meaning of the act, in that there had been mixed and packed with it, in a manner to reduce, lower, and injuriously affect its quality and strength, cane syrup, and, further, in that cane syrup had been substituted in part for the genuine food product; and was misbranded, in that it was labeled "Maple Syrup," which statement was false, misleading, and deceptive, and would tend to deceive and mislead the purchaser into the belief that he was getting pure maple syrup, whereas, in fact, the product was a mixture of maple syrup and cane syrup.

On December 31, 1909, the defendant entered a plea of guilty and the court imposed upon it a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 291, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF NEUFCHATEL CHEESE.

On or about April 3, and May 25, 1909, James L. Kraft, Charles H. Kraft, and Fred Kraft, copartners, doing business under the name and style of J. L. Kraft & Bros., Chicago, Ill., shipped from the State of Illinois to the State of New York and the State of Missouri, respectively, consignments of a food product labeled: "Blue Ribbon Brand Neufchatel Style Cheese J. L. Kraft & Bros., Chicago, Ill." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analysts and reports thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded J. L. Kraft & Bros., and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with statements of the evidence upon which to base prosecutions. In due course, criminal informations were filed in the District Court of the United States for the Northern District of Illinois, charging the above shipments and alleging that the product was adulterated, in that the said cheeses were made out of skimmed milk, whereas they should have been made from whole milk, and that the fatty substances of whole milk had been abstracted; and was misbranded, in that it was labeled "Blue Ribbon Brand Neufchatel Style Cheese," which statement was false, misleading, and deceptive and calculated to deceive and mislead the purchaser into the belief that the said product was of the kind and quality of genuine Neufchatel cheese, which should be made of whole milk, when, in fact, the said product was made of skimmed milk from which the fatty substances had been abstracted; and was further misbranded, in that

the label bore the words "Neufchatel Cheese" in large type and the word "style" in small, inconspicuous type, whereby the said product was so labeled and branded as to purport to be, and to deceive and mislead the purchaser into believing it to be, a foreign product of well known superior quality, when, in fact, said article was wholly a domestic product, and a product greatly inferior to genuine Neufchatel cheese.

On January 25, 1910, the defendants entered a plea of guilty to each of these informations, and the court imposed upon them a fine of \$10 on each information.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 292, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF POWDERED COLOCYNTH.

On or about April 7, and May 28, 1908, the Murray & Nickell Manufacturing Company, Chicago, Ill., shipped from the State of Illinois to the State of Missouri and the State of Michigan, respectively, consignments of a drug labeled "Powdered Colocynth." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analysts and reports thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Murray & Nickell Manufacturing Company, and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with statements of the evidence upon which to base prosecutions. In due course criminal informations were filed in the District Court of the United States for the Northern District of Illinois, charging the above shipments and alleging that the product was adulterated, in that it was sold under a name recognized by the United States Pharmacopœia and differed from the standard of strength, quality, and purity as determined by the test laid down in said Pharmacopœia, which said standard described it as a product "from which the seeds should be separated and rejected," and that it contained a large quantity of seeds, and did not state its own standard of strength, quality, or purity on the label; and was misbranded, in that it was labeled "Powdered Colocynth," which statement was false and misleading and tended to mislead the purchaser into the belief that it complied with the requirements of the United States Pharmacopœia, free from seeds, whereas, in fact, it contained a large quantity of seeds.

On January 14, 1910, the defendant entered a plea of guilty to each information and the court imposed a fine of \$10 in each case.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 293, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF ESSENCE OF WINTER- GREEN.

On or about April 17, 1909, Dallemand & Co., Chicago, Ill., shipped from the State of Illinois to the State of Michigan a consignment of product labeled: "Essence of Wintergreen Guaranteed under the Food and Drugs Act, June 30, 1906." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded Dallemand & Co., and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course, a criminal information was filed in the District Court of the United States for the Northern District of Illinois, charging the above shipment and alleging that the product was adulterated within the meaning of the act, in that a dilute preparation of wintergreen containing less than one-half the necessary amount of wintergreen had been substituted for essence of wintergreen of full strength, and was artificially colored in a manner to conceal its inferiority; and was misbranded, in that it was labeled "Essence of Wintergreen," which statement was false and misleading, in that it gave the impression that the product was a pure essence of wintergreen of full strength, whereas, it was, in fact, a dilute preparation of wintergreen containing less than one-half the necessary amount of wintergreen, and was artificially colored in imitation of essence of wintergreen of full strength.

On December 31, 1909, the defendant entered a plea of guilty and the court imposed upon it a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 294, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"MAKE-MAN TABLETS."

On or about November 3, 1908, and March 6, 1909, the Make-Man Tablet Company, of Chicago, Ill., shipped from the State of Illinois to the District of Columbia and to the State of Indiana consignments of a drug labeled "Make-Man Tablets." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture. As it appeared from the findings of the analysts and reports thereon that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Make-Man Tablet Company, and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with statements of the evidence on which to base prosecutions.

In due course criminal informations were filed in the District Court of the United States for the Northern District of Illinois against the Make-Man Tablet Company, charging the above shipments and alleging that the product was misbranded, in that it was labeled:

"Make-Man Tablets. A brain, blood and nerve tonic. Especially prepared for the treatment of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor-ataxia, wasting diseases, nervous debility, female disorders and all kindred diseases resulting from a worn out nervous system. Distinctively a tonic to build up the system and contains no poison. They are nature's greatest aid to repair the nervous system, giving power of endurance and capacity to enjoy every pleasure. An ideal remedy for all nervous troubles. The effect is immediate and no doubt of results exist. They make men and women strong. Prepared only by the Make-Man Tablet Co., Chicago, U. S. A.,"

which statements were false, misleading, and deceptive, in that the statements indicated that the said Make-Man Tablets were of a

curative and remedial value in the treatment of dyspepsia, neuralgia, kidney and liver trouble, catarrh, consumption, locomotor-ataxia, wasting diseases, nervous debility, female disorders and all diseases resulting from a worn out nervous system, whereas, in fact, said tablets were not of a curative or remedial value in the treatment of these diseases, and further, that the said statements indicated and conveyed the impression that the said tablets were a brain, blood, and nerve tonic, whereas, in fact, they were not a brain, blood, and nerve tonic, and further, that the said statements indicated that the tablets were an ideal remedy for all nervous troubles, whereas, in fact, they were not a remedy for all nervous troubles, and further, that said statements indicated that the use of the said tablets would and did make men and women strong, whereas, in fact, their use would not and did not make men and women strong.

On March 19, 1910, the defendant entered pleas of nolo contendere to each information and the court imposed a fine of \$10 for each offense.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 295, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF EGGS.

On or about December 28, 1909, the Buffalo Cold Storage Co., Buffalo, N. Y., shipped from the State of New York into the State of Pennsylvania 70 cases of eggs, each case marked "ANo933." Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States Attorney for the Western District of Pennsylvania.

In due course a libel was filed against the said 70 cases of eggs, charging that the product was adulterated and misbranded in that it was in whole or in part filthy, decomposed, and in a moldy condition and unfit for food.

On February 8, 1910, no answer having been filed to the above-mentioned libel, the case came on for final hearing and the court rendered its decree of condemnation and forfeiture in substance and form as follows:

DECREE.

And now, to wit, February 8, 1910, it appearing from the records that the Marshal has made return to the attachment and monition in the above stated case as follows:

"I hereby certify and report that I seized forty-three cases of eggs in the possession of E. Culver & Company and have the same in custody. Cited all persons in interest, by giving a true and attested copy to E. Culver, a member of the firm of E. Culver & Company, on the 15th day of January, A. D., 1910, at Pittsburgh, Pennsylvania." and the return day of said writ having passed and it appearing to the Court that no

claim has been interposed or answer made to the said writ and libel filed, now, therefore, on motion of John H. Jordan, United States Attorney, proclamation is made for all persons in interest or having anything to say why the said forty-three cases of eggs should not be condemned and ordered to be destroyed, and no person having intervened a claim, and the record disclosing the state of facts as set forth in the motion of the United States Attorney hereto attached, it is ordered, adjudged and decreed by the Court that the said forty-three cases of eggs attached as aforesaid, in the possession of E. Culver & Company, be and hereby are condemned and it is further ordered and directed by the Court that the United States Marshal, through whom the said attachment was made, is hereby ordered and directed to destroy the said forty-three cases of eggs so as to prevent their use in any manner or form for the purpose of human food.

The Clerk of the said District Court is hereby directed to issue to the said Marshal a proper order or writ under the seal of the Court, directing him to carry into effect this order and decree of the court.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 296, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF "KOS-KOLA."

(A SOFT DRINK CONTAINING COCAINE.)

On or about November 18, 1908, and December 5, 1908, the Sethness Company, of Chicago, Ill., shipped from the State of Illinois to the District of Columbia and to the State of Michigan consignments of a food product known as "Kos-Kola." Samples from these shipments were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analysts and reports thereon indicated that the product in the first shipment was adulterated and misbranded and the product in the second shipment was misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded the Sethness Company, and the dealers from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base prosecutions. In due course criminal informations were filed in the District Court of the United States for the Northern District of Illinois, charging the above shipments and alleging that the first consignment was adulterated, in that it contained an added poisonous and deleterious ingredient, to wit, cocaine; and was misbranded, in that it contained cocaine and failed to bear a statement on the label of the quantity or proportion thereof, and was further misbranded, in that it was labeled "Kos-Kola Flavor," which statement was false, misleading, and deceptive, in that it indicated that a product of the kola nut was one of its chief ingredients whereas, in fact, the product of the kola nut was not one of the chief ingredients contained in said

article of food; and further alleging that the second shipment was misbranded in that it was labeled "Kos-Kola" and that it contained cocaine and failed to bear a statement on the label of the quantity or proportion thereof.

On January 10, 1910, the said defendant entered a plea of guilty to each information and the court imposed a fine of \$10 for each offense.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 297, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF PEPPER.

On or about September 22, 1908, Bennett, Sloan & Co., New York, N. Y., shipped from the State of New York to the State of North Carolina a consignment of a food product labeled "6 lbs. Crown Brand Pure Pepper Packed Expressly for Wilson Produce Co., Wilson, N. C." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act, June 30, 1906, the Secretary of Agriculture afforded Bennett, Sloan & Co., and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution. In due course a criminal information was filed in the Circuit Court of the United States for the Southern District of New York against said Bennett, Sloan & Co., charging the above shipment and alleging that the product was adulterated in that ash and sand had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength, and that it was misbranded, in that it was labeled "Pure Pepper," which statement was false and misleading, in that said package did not contain pure pepper but a mixture of pepper and sand and ash.

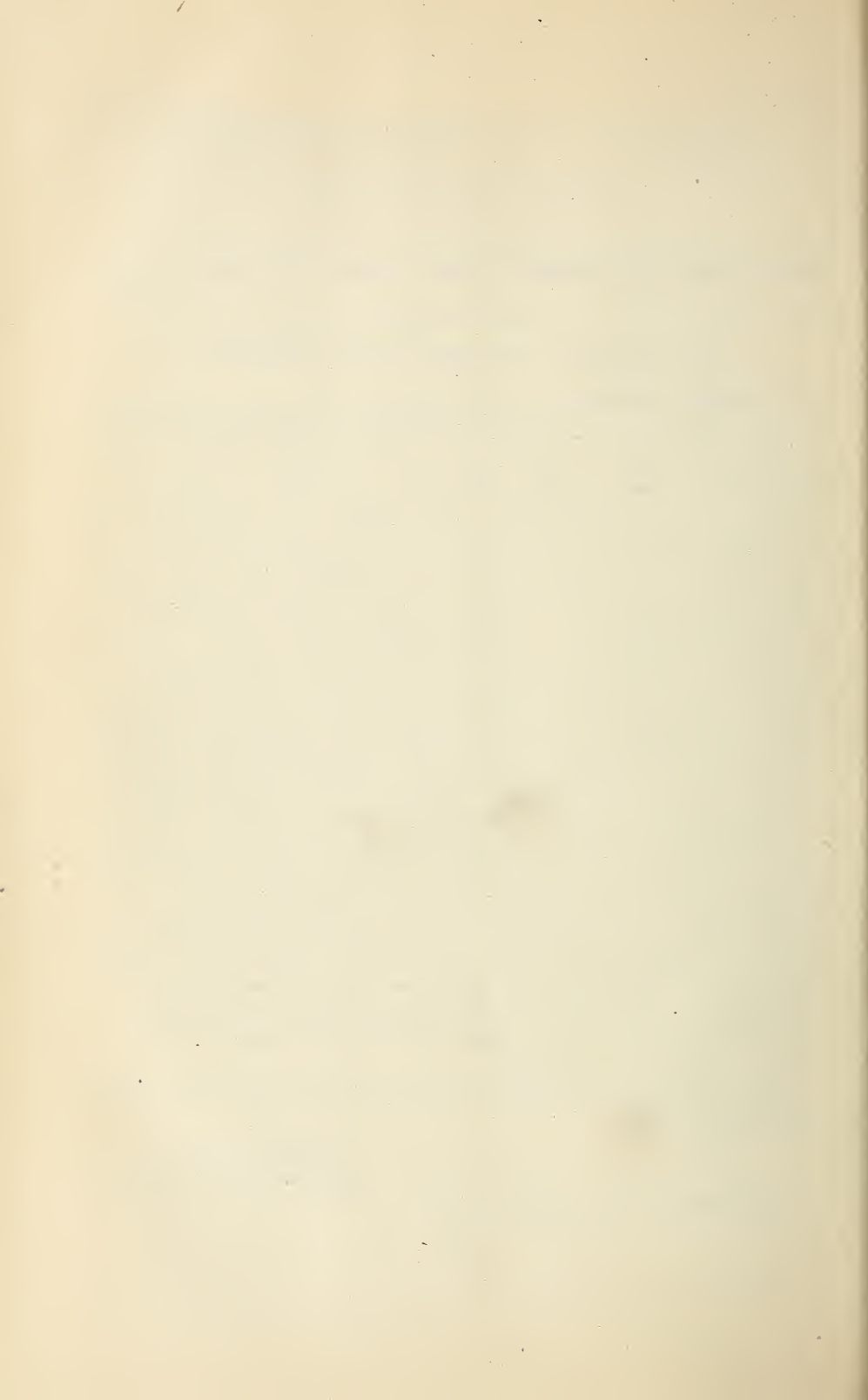
On December 8, 1909, the defendant entered a plea of guilty and the court imposed a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*





United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 298, FOOD AND DRUGS ACT.

MISBRANDING OF A FEED—"CERECUT."

On or about July 18, 1908, the Cereal Products Co., of Minneapolis, Minn., shipped from the State of Minnesota to the State of Illinois a consignment of a product labeled:

"For Drawback, Minimum Fat 8%, Minimum Protein 15%, Maximum Crude Fiber 15.5%. Average Water 8%, Starch, Sugar, etc., 49%. Sterilized, Cerecut, 100 lbs. net. Ground from the whole Grain, Wheat, Oats, Buckwheat and Flax Screenings. The Millers' Products Co., Chicago, Ill., U. S. A. Made in Minneapolis, Minn. Guaranteed under the Food and Drugs Act, June 30, 1906, 17115."

Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Cereal Products Co., and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed against the said Cereal Products Co. in the District Court of the United States for the District of Minnesota, charging the above shipment and alleging that the product was misbranded, in that it was labeled "Minimum Fat 8%, Minimum Protein 15%, Maximum Crude Fiber 15.5%. Average Water 8%, Starch, Sugar, etc., 49%. Sterilized, Cerecut, 100 lbs. net. Ground from the whole Grain, Wheat, Oats, Buckwheat and Flax Screenings," which statements were false and misleading, in that there were no oats or buckwheat in the said product.

On October 7, 1909, the defendant entered a plea of guilty and the court imposed a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., April 14, 1910.

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F. & D. No. 1117 and No. 1118.

I. S. No. 2905-b, and No. 2996-b, and 3000-b.

U. S. Department of Agriculture.

Issued May 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 299, FOOD AND DRUGS ACT.

ADULTERATION OF ICE.

On or about July 7, and August 10, 1909, respectively, the American Ice Co., engaged in business in Washington, D. C., sold and offered for sale quantities of an article of food known as ice. Samples of this product were collected and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report thereon that the product was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the American Ice Co. an opportunity to be heard. As it appeared after the hearing that the said sales had been made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed against the said American Ice Co., and Samuel A. Kimberly, local manager and agent of the said company, in the Police Court of the District of Columbia, charging the above sales and alleging that the product was adulterated, in that it contained an added poisonous and deleterious ingredient and consisted wholly or in part of a filthy, decomposed and putrid animal and vegetable substance.

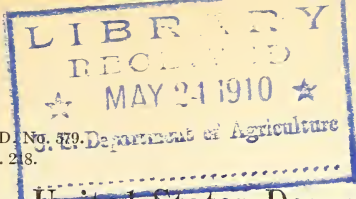
On March 25, 1910, the American Ice Co. entered a plea of guilty, and the court imposed upon it a fine of \$150.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 14, 1910.*

O



F. & D. No. 379. Department of Agriculture
S. No. 218.

Issued May 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 300, FOOD AND DRUGS ACT.

ALLEGED ADULTERATION AND MISBRANDING OF CALCIUM ACID PHOSPHATE.

On or about April 6, 1909, the Provident Chemical Company, of St. Louis, Mo., shipped from the State of Missouri to the State of California one hundred barrels of a product labeled "Provident Chemical Co. St. Louis, 300 lbs. C. A. P. guaranteed under the Food and Drugs Act." Analyses of samples of this product, made by the Bureau of Chemistry, United States Department of Agriculture, indicated that it was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report thereon that the said shipment was made in violation of section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Northern District of California. In due course a libel was filed against the said one hundred barrels, in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA.

THE UNITED STATES OF AMERICA, <i>Libellant,</i>	}
<i>vs.</i>	
ONE HUNDRED BARRELS OF CALCIUM ACID PHOSPHATE, <i>Defendant.</i>	

To the Honorable District Court above named:

The United States of America, through Robert T. Devlin, United States attorney for the Northern District of California, respectfully show:

That complainant above named in its own right prays for seizure and condemnation of certain articles of food and articles used for the preparation of food described, as follows: one hundred barrels, each containing three hundred pounds of so-called calcium acid phosphate;

That the substance last referred to was shipped on April 6th, 1909 by the Provident Chemical Company of St. Louis, Missouri, via the Missouri-Pacific, The Union Pacific, and the Southern Pacific Railroads, from the State of Missouri to the State of California, in interstate commerce, and is now held in the State of California at Whittel Warehouse, in the State and Northern District of California, subject to the orders of the Del Monte Milling Company, a corporation, organized and existing and doing business under the laws of the State of California;

That said shipment was made directly to the said Del Monte Milling Company, and was through and continuous from point of origin to destination in the State of California;

That each of said barrels is labeled as follows: "Provident Chemical Co., St. Louis, 300 lbs. C. A. P. guaranteed under the Food and Drugs Act."

That the said substance above referred to and so branded and so barrelled was shipped under the representation by the said consignor and the same at all times has been so branded by said consignor as falsely to appear as pure calcium acid phosphate without any adulteration; that the said branding of the said substance aforesaid was and is wholly false; that the said substance has at all times been and is adulterated with approximately fifty per cent corn starch; that said adulteration has been mixed and packed with the said calcium acid phosphate so as to reduce and lower and injuriously affect the quality and strength thereof; that said corn starch is of far less value than the said calcium acid phosphate; that the mixing of the same with the said calcium acid phosphate does greatly damage the same and does conceal the inferiority of the entire substance made by the said mixture;

That the said substance hereinbefore referred to and the whole thereof is a part of an interstate shipment, and the same was shipped to the said Del Monte Milling Company and to its order aforesaid, for the purpose of sale, and for use in its said adulterated condition, and as branded as aforesaid for food and in the preparation of foods;

That there is no marking of any kind on the substance heretofore referred to contained in the said barrels which indicates in any way the adulteration aforesaid.

Wherefore in consideration of the premises, your libellant prays that the said article of food, consisting of one hundred barrels of so called calcium acid phosphate hereinbefore more specifically described may be proceeded against and seized for condemnation in accordance with the Act of Congress approved June 30, 1906, and to this end this Honorable Court may issue process of attachment in due process of law according to the course of this Honorable Court in cases of admiralty and maritime jurisdiction, so far as practicable in this case, and that the said Del Monte Milling Company and the said Provident Chemical Company, and all other persons having or pretending to have any right, title or claim in and to the said articles of food above mentioned may be cited to appear herein and answer all and singular the premises aforesaid, and that if the said Del Monte Milling Company and the said Provident Chemical Company cannot be found that they be cited by process of publication in the manner provided by law.

That by an appropriate order this Honorable Court may adjudge and decree that the said articles of food hereinbefore particularly described be condemned at the suit of this libellant according to the provisions of the Act of Congress hereinbefore set forth; that this Honorable Court may pass all such orders and decrees and judgments as may be necessary in the premises and may grant your libellant a decree for the costs of this proceeding against the said Del Monte Milling Company and the said Provident Chemical Company or the owners or holders of said articles condemned, should such costs not be satisfied out of the proceeds of the sale, and that your libellant may have such other and further relief as the nature of the case may require.

On May 25, 1909, the Provident Chemical Company, St. Louis, Mo., entered an appearance and filed its answer to the above mentioned libel, in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE NORTHERN
DISTRICT OF CALIFORNIA.

THE UNITED STATES OF AMERICA, *Libellant*,

vs.

ONE HUNDRED BARRELS OF CALCIUM ACID PHOSPHATE, *Defendant*.

The Provident Chemical Works of St. Louis, Missouri, a corporation, answering the libel filed herein by the above named libellant, alleges and denies as follows:

I.

Alleges that it is, and at all the times in said libel and this answer mentioned, was a corporation duly organized and existing under and by virtue of the laws of the State of West Virginia, with its principal place of business in the City of St. Louis, State of Missouri, and is, and at all the times in said libel mentioned, was, a citizen of the said State of West Virginia.

II.

It is, and at all the times in said libel and in this answer set forth, was the owner of the articles referred to as "one hundred barrels of calcium acid phosphate," which the libellant seeks to condemn as articles of food and articles used in the preparation of food.

III.

Denies that the said substance above referred to as "one hundred barrels of calcium acid phosphate" is, or is represented to be, or ever was represented to be, or is known, or ever was known, as "calcium acid phosphate;" denies that said substance is, or is used, or was, or was used, as either a "drug" or "food" or in the preparation of "food" within the meaning of the "food and drug" Act of Congress, approved June 30th, 1906; denies that each of the barrels which contain said substance is branded other than "Provident Chemical Works, St. Louis, 300 lbs. C. A. P. guaranteed under the food and drug Act;" denies that the said substance was ever represented as, or shipped as pure calcium acid phosphate, or as pure calcium acid phosphate without any adulteration; denies that the said substance is, or ever was, either barrelled or branded to appear as pure calcium acid phosphate without adulteration, or to appear as pure calcium acid phosphate; denies that the branding of said substance as "C. A. P." is wholly, or at all false; denies that said substance has at all times, or is now adulterated with fifty per centum of corn starch, or approximately fifty per cent of corn starch; denies that said, or any, adulteration has been mixed or packed with said substance, or with "calcium acid phosphate" to reduce and lower or injuriously affect the quality and strength of said substance; denies that the mixing of corn starch with calcium acid phosphate greatly or at all damages the same, or conceals the inferiority of the entire substance made by said mixture, or that said mixture is inferior; denies that the substance seized is, or is represented, or ever was represented, as pure calcium acid phosphate. Denies that the said substance seized and sought to be condemned was shipped for the purpose of sale as, or to be used as, food, or to be used in the preparation of food; denies that it was ever branded, represented or sold, in a false or misleading way, or as a food or as a substance to be used in the preparation of foods, or as a component part of a food; denies that there is no marking of any kind on the said substance seized as aforesaid which indicates in any way the adulteration of said substance; denies that said substance has ever been represented to be other than it is or was, or that it is inferior to what it is, or was represented to be.

And for a further and separate answer and defense to said libel this claimant, Provident Chemical Works of St. Louis, Missouri, a corporation, alleges:

I.

Provident Chemical Works of St. Louis, Missouri, is and at all the times in said libel and in this answer mentioned, and for more than ten years prior thereto, was, a corporation duly organized and existing under and by virtue of the laws of the State of West Virginia, and a citizen of said State, with its principal place of business in the said City of St. Louis, State of Missouri.

II.

Ever since the year 1885, said claimant and its predecessors in interest were, and it still is, engaged, at the said City of St. Louis, in the manufacture and production of various kinds and qualities of acid phosphates and other chemicals. Among the chemicals so produced was the substance seized, said substance from about 1884 to 1890, was known and represented as, and sold as, "Cream Acid Phosphate" which substance was known to contain about one-third starch; said name was soon condensed to the arbitrary letters "C. A. P." which letters were known to represent the said "Cream Acid Phosphate," and became and were known with and applied to this particular product to distinguish it from others, and identify it with this claimant as the producer and manufacturer of it. Thereupon said claimant adopted said letters "C. A. P." as its trade-mark and appropriated said trade-mark to chemicals of its manufacture and particularly described the substance seized as the class of chemicals upon which said trade-mark would be and has been used, and the use of said trade-mark on said substance has been sustained; neither said letters "C. A. P." nor said trade-mark stand for, or are understood by any one to stand for or represent pure calcium acid phosphate, or any other substance other than said "cream acid phosphate," which is neither a drug nor food, nor used in the composition of food.

And for a further, second and separate answer and defense to said libel this claimant alleges that calcium acid phosphate has no recognized nor accepted standard of strength, quality or purity, and is not mentioned in the United States Pharmacopœia or the National Formulary.

And for a further, third and separate answer and defense to this libel this claimant alleges that said substance seized at the time of its introduction unto the said State of California, was neither a drug nor food, nor a part or element of food, and it was not, is not and never has been misbranded and was not and is not an adulterated or misbranded food; but said substance is a chemical mixture now and at all times known under its distinctive trade-mark "C. A. P.," and its label and brand is the statement that it is produced in St. Louis, Missouri.

And for a further, fourth and separate answer and defense to this libel said claimant alleges that said chemical may not be used even in the preparation of food except in combination with bicarbonate of soda and moisture which produces a chemical action which essentially and substantially changes said substance to phosphate of soda; that said phosphate of soda is produced after said "C. A. P." has been delivered in said State of California and therefore does not come within the provisions of the Act of Congress, dated June 30th, 1906, and this Court has no jurisdiction in this proceeding.

Wherefore, this claimant prays that libellant take nothing in the above entitled action; that said libel be dismissed and that claimant recover costs and charges herein incurred, and for such other relief as may be just.

LENT AND HUMPHREYS,
Proctors for Claimant.

On June 22, 1909, the case came on for hearing on libel and answer, and the court rendered its decree, in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE NORTHERN DISTRICT OF CALIFORNIA.

THE UNITED STATES OF AMERICA, <i>Libellant,</i>	} No. 14015.
<i>vs.</i>	
ONE HUNDRED BARRELS OF CALCIUM ACID PHOSPHATE, <i>Defendant.</i>	

DE HAVEN, *District Judge.*

It is provided in subdivision 4, section 8 of the Act of June 30th, 1906 (34 Stat., 768), under which this action is prosecuted, that "an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second. . . . It clearly appears from the evidence that the substance referred to in the libel, and sought to be condemned in this action, is compounded of calcium acid phosphate and corn starch, the mixture containing about 33½ per cent of corn starch.

It also appears that the addition of corn starch does not render the mixture deleterious or in any way dangerous to the health of persons eating food in the proportions in which said compound is used.

It further appears that said compound when first manufactured was known as and sold as "Cream Acid Phosphate;" that said name was thereafter condensed to the use of the arbitrary letters "C. A. P." and applied particularly to the substance or product referred to in the libel for the purpose of distinguishing it from other products; that the claimant herein adopted said letters C. A. P. as its trade-mark. In other words, the substance referred to is manufactured and sold under the distinctive name of "C. A. P."

It follows from the foregoing that the plaintiff is not entitled to recover in this proceeding; that while the article sold, under the trade name of "C. A. P." may be classed as an article of food, it does not contain any poisonous or deleterious ingredients, within the meaning of the statute above quoted, and the libel must therefore be dismissed.

So ordered.

In accordance with the provisions of this decree the goods were released to the claimant.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of the United States District Courts and United States Circuit Courts of Appeal adverse to the Government will not be accepted as final until acquiescence shall have been published.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

NOTICES OF JUDGMENT.

FOODS.

	N. J. No.		N. J. No.
Almond extract. (<i>See</i> Extract, Almond.)		Calcium acid phosphate. (<i>See</i> Phosphate.)	
Apple cider. (<i>See</i> Cider.)		Cane sirup. (<i>See</i> Sirup, Cane.)	
Apple cider vinegar. (<i>See</i> Vinegar.)		Catsup. (<i>See</i> Tomato ketchup.)	
Apple jelly. (<i>See</i> Jelly, Apple.)		Cereals:	
Apples:		Acme Mills Co.....	105
Bruns Bros. Grocery Co.....	87	New England Food Co.....	96
Doyle, Michael, & Co.....	89, 255	(<i>See also</i> Feeds.)	
Elyria Canning Co.....	64	Cerecut:	
Erie Preserving Co.....	57	Cereal Products Co.....	298
Funsten, R. E., Dried Fruit and Nut Co..	161	Cheese:	
Goddard, Joseph A., & Co.....	64	Baird Bros.....	137
Godfrey, C. H., & Son.....	36	Crosby & Meyers.....	137, 138
Hulman & Co.....	57	Githens, Rexsamer & Co.....	154
Kahn, L.....	89	Mustin Robertson Co.....	138
Miller, W. Clarence.....	255	Phenix Cheese Co.....	154
Silbernagel Co. (Ltd.).....	89	Cheese, Neufchatel:	
Apricots:		Kraft, J. L., & Bros.....	291
Armsby, J. K., Co.....	114	Cherries:	
California Canneries Co.....	92	Dunkley Co.....	178
Cochran Grocery Co.....	186	Michigan Vacuum Canning Co.....	178
Witwer Bros. Co.....	92	Ratcliff-Sanders Grocer Co.....	178
Baking powder:		Spratlen-Anderson Mercantile Co.....	72
Consolidated Grocery Co.....	155	Woodcross Canning & Pickling Co.....	72
Continental Baking Powder Co.....	155	Cider:	
Beans:		Gregory, O. L., Vinegar Co.....	6
Bloomington Canning Co.....	39	Schmidt, A., jr., & Bros.....	6
Dalley, E. G., Co.....	84	Semmes-Kelly Co.....	1
Muskogee Wholesale Grocer Co.....	93	Cider vinegar. (<i>See</i> Vinegar.)	
Reedsburg Canning Co.....	93	Coffee:	
Beer:		Blanke, C. F., Tea & Coffee Co.....	275
Fallert, Joseph, Brewing Co.....	51	Canby, Ach & Canby Co.....	215
Helm Brewing Co.....	65	Climax Coffee & Baking Powder Co.....	55
Beverages, Medicated. (<i>See</i> under Drugs and medicinal agents.)		Dayton Spice Mills Co.....	49
Blackberries:		Orr, Jackson & Co.....	50
Godfrey, C. H., & Son.....	36	Reilly-Taylor Co.....	177
Ogburn, J. S., & Co.....	26, 27	Southern Coffee Mills.....	50
Ogburn, J. W.....	26	U. S. Coffee Refining Co.....	4
Bran:		Condensed milk. (<i>See</i> Milk, Condensed.)	
Arkadelphia Milling Co.....	231	Corn:	
Buckwheat flour:		Atlantic Canning Co.....	128
Capital Milling Co.....	129	Audubon Canning Co.....	38
Ela Manufacturing Co.....	118	Bloomington Canning Co.....	39
Harrison, W. H., & Co.....	263	Carthage Cannery.....	95
Horpel, Louis, & Co.....	60	Ft. Des Moines Canning Co.....	52, 53
Newmark, M. A., & Co.....	129	Grand Island Canning Co.....	63
Read, C., & Co.....	31	Gunther, F. T., Grocery Co. (Inc.).....	95
Scott, Catherine.....	118	Kiesel, Fred J., Co.....	38
Staley, H. B., & Co.....	124	McCord-Collins Mercantile Co.....	52, 53
Butter:		Otoe Preserving Co.....	126
Elgin Creamery Co.....	42	Plummer Mercantile Co.....	63
Fox River Butter Co.....	67	Smith-Yingling Co.....	40
Redman, Corinne H.....	42	Corn meal:	
Weber, Gus H.....	67	Wellder, Sam. W., Co.....	170
		Corn sirup. (<i>See</i> Sirup, Corn.)	

FOODS—Continued.

Cotton-seed meal:	N. J. No.	Extract, Vanilla:	N. J. No.
Asheville Grocery Co.	179	Blanke-Baer Chemical Co.	242
Hunter Bros. Milling Co.	173	Ennis, Hanly, Blackburn Coffee Co.	148
Tennessee Fibre Co.	179	Fitch, John H., Co.	140
Wells, J. Lindsay, Co.	109	Heekin Spice Co.	48
Cream:		Interstate Chemical Co.	139
Blough, Elijah E.	185	McCormick & Co.	135
Harley, Samuel C.	185, 241	Monroe Pharmacal Co.	151
Howard, Lynden W.	268	Paddock Coffee & Spice Co.	123
Swart, Arthur.	264	Steinbock & Patrick.	14
Thomas, Stephen A.	285	Woodworth, C. B., Sons Co.	5
Currants:		Farina. (See Gluten farina.)	
Holzbeierlein, Michael.	188	Feeds:	
Custard:		Biles, J. W., Co.	102
Horpel, Louis.	166	Capital Grain & Mill Co.	66
Desiccated eggs. (See Eggs, Desiccated.)		Daily, E. P.	119
Dragées. (See Silver dragées.)		Dewald, N.	171
Eggs:		Hellman, Joseph W.	174
Buffalo Cold Storage Co.	295	Krause, Charles A., Milling Co.	172
Cohen, Samuel.	103	Lawrence & Hamilton Feed Co. (Ltd.)	104
Culver, E., & Co.	295	Michigan Starch Co.	116, 117
Eberle, C., & Sons.	46	Mueller, E. P.	174, 256
Golden & Co.	22	Pillsbury, Herbert P.	256
Rogerson, F., Co.	7	Quaker Oats Co.	171
Spencer & Howes.	46	Wells, J. Lindsay, Co.	230
Eggs, Desiccated:		(See also Bran; Cerecut; Meal; Oats.)	
Columbia Desiccated Egg Co.	227	Flavor. (See Extract.)	
Holmes & Son.	227	Flour:	
Monarch Desiccated Egg Co.	272	Brewer, W. C., & Co.	113
Eggs, Evaporated:		Carter, Seymour.	12
Armour & Co.	252	The Gardner Mill.	12
Eggs, Liquid:		Orrville Milling Co.	13, 17
Brown, Morris.	224	Riverton Mills Co.	113
Sloan, Henry, & Co.	224	(See also Buckwheat, Gluten, Milk, and	
Evaporated eggs. (See Eggs, Evaporated.)		Rye flours.)	
Extract, Almond:		Globe flour middlings. (See Feeds.)	
Midland Grocery Co.	142	Gluten farina:	
Extract, Lemon:		Acme Mills Co.	250
Beggs, Frank L.	237	Gluten flour:	
Burke, Nicholas, Co. (Ltd.)	115	Acme Mills Co.	250
Campbell, J. S., Co.	259	The Birkett Mills.	3
Cumberland Manufacturing Co.	56	Grains. (See Feeds.)	
Dwight-Edwards Co.	91	Herring:	
Hallock-Denton Co.	277	Grilly, J. H.	257
Harrison, W. H., & Co.	281	Whitfield, J. A., Co.	257
Heekin Spice Co.	71	Honey:	
Hilbert, A. J., & Co.	141	Boeckmann, A.	269
Mackie, Albert, Grocer Co.	130	Rogers Holloway Co.	18, 19, 20, 21
Mobile Drug Co.	152	Ice:	
Paddock Coffee & Spice Co.	136	American Ice Co.	299
Spies, Chas., & Co.	150	Kimberly, Samuel A.	299
Styron, Beggs & Co.	237	Ice cream:	
Suffolk Drug & Extract Co.	147	Wallis, Hugh.	213
Thomson & Taylor Spice Co.	149	Jelly, Apple:	
Weston, Edward, Tea & Spice Co.	194	Williams Bros. Co.	238
Extract, Pineapple:		Ketchup. (See Tomato ketchup.)	
Mobile Drug Co.	152	Lemon extract. (See Extract, Lemon.)	
Extract, Raspberry:		Lemon oil:	
Dwight-Edwards Co.	91	Hutchinson, David W.	196
Extract, Strawberry:		Lemonade powder:	
Dwight-Edwards Co.	91	Columbia Mfg. Co.	279
Howell, H. B., & Co. (Ltd.)	143	Morrissey, Charles T.	279
King Bros., Shilstone & Saint (Ltd.)	123, 218	Liquid eggs. (See Eggs, Liquid.)	
Warner-Jenkinson Co.	246		

FOODS—Continued.

Macaroni:	N. J. No.	Milk, Condensed:	N. J. No.
Atlantic Macaroni Co.	167	Libby, McNeill & Libby, Ltd. (Inc.) ...	223
Ventrone, F. P.	167	Milk, Powdered:	
Viviano, V., & Bros.	262	Beckman, W. E., & Co.	273
Maple sirup. (<i>See</i> Sirup, Maple.)		Ekenberg Milk Products Co.	273
Maple sugar:		Milk flour:	
Beeman, J. M., & Son.	107	Behrend, F.	211
Mapleline:		Kuhnle, H. J., Co.	211
Crescent Mfg. Co.	163	Molasses:	
Meal:		Berry-Maybrun Co.	234
Weilder, S. W.	44	Coe, C. E.	270
(<i>See also</i> Corn meal; Cotton-seed meal.)		Penick & Ford.	2
Milk:		Philadelphia Horse & Cattle Molasses Co.	254
Allen, John.	88	White, Wilson, Drew Co.	24
Altamus, Frank E.	88	Neufchatel cheese. (<i>See</i> Cheese, Neufchatel.)	
Berman, Soul.	88	Oats:	
Boberink, Henry.	219	Bartlett Commission Co.	58
Boyle, M.	132	Harsh, Alex. C., & Co.	76
Carr, Nettie.	267	Interstate Warehouse & Elevator Co.	101
Chichester, Washington B.	265	(<i>See also</i> Cereals.)	
Corbin, Thomas.	125	Oil. (<i>See</i> Olive oil.)	
Deterding, C.	11	Olive oil:	
Ducker, Henry.	125	Brina, Guido.	80
Dunnaway, Owen.	125	Cristani, Maria.	247
Evers, B., & Sons.	125	King Bros., Shilstone & Saint (Ltd.) ...	133, 217
Ficke, W. M.	125	Standard Trading Co.	80
Geiger, Joseph.	125	de Vivo, Pasquale.	244
Griebler, Andreas.	37	Orangeade powder:	
Griffith, Howard.	88	Columbia Mfg. Co.	279
Groger, Henry.	81	Morrissey, Charles T.	279
Groger, Theodore.	125	Peaches:	
Harbin, Charles.	88	Armsby, J. K., Co.	34, 35
Hettenkemer, Philip.	88	California Canneries Co.	92
Hogan, W. F.	125	Cochran Grocery Co.	186
Holt, Patrick B.	88	Kern, Henry P.	153
Jarboe, Grover F.	88	Miller, Clagett Co.	153
Johnson, W. F.	125	Ridenour-Baker Mercantile Co.	34
Kanode, Robert E.	214	Whiteman, C. P.	35
Kirby, J. C.	125	Witwer Bros. Co.	92
Kotzenberg, J. C.	132	Peanuts, Shelled:	
Mace, Frank.	88	Vegetarian Meat Co.	253
Mack, Albert.	214	Pears:	
Meiman, John.	125	California Canneries Co.	92
Mullins, B. M., & Sons.	125	Witwer Bros. Co.	92
Nostheide, Henry.	125	Peas:	
Null, William C.	287	Hohenadel, P., jr., Canning Co.	43
Peoples, Charles, jr.	125	Humphreys, J. F., & Co.	90
Perry, W. H.	125	Reynolds Preserving Co.	90
Poore, Julia.	88	Van Camp Packing Co.	70, 165
Reeves, George R.	214	Pepper:	
Reeves, Willie.	125	Bennett, Sloan & Co.	297
Robinson, Lyman T.	214	Calumet Tea & Coffee Co.	288
Sanger, William A.	88	Dean, Harry W.	158
Schackle, Stephen.	125	Hanley & Kinsella Coffee & Spice Co.	210
Schapiro, Albert.	88	Interstate Chemical Co.	28
Siddall, Blanche D.	88	Long Bros. Grocery Co.	120
Soper, William W.	228	Parrish Bros.	159
Strassen, Daniel.	8, 9	Powell-Sanders Co.	75
Stup, David.	214	Spies, Chas., & Co.	164
Vernon, Charles E.	88	Phosphate, Calcium acid:	
Walter, Charles A.	229	Provident Chemical Co.	300
Whitehead, William W.	88	Pineapple extract. (<i>See</i> Extract, Pineapple.)	
Williams, C. E.	132	Plums:	
Wisconsin Butter and Cheese Co.	206	California Canneries Co.	92
Wise, George A.	88	Witwer Bros. Co.	92

FOODS—Continued.

	N. J. No.
Powdered eggs. (<i>See Eggs, Powdered.</i>)	
Preserves:	
Numsen, William, & Sons (Inc.)...	108, 212, 222
Raisins, Seedless:	
Berg, John C.....	146
Comly Flannigan & Co.....	162
Connecticut Pie Co.....	145
Ewald, John C.....	162
Malaga Packing Co.....	145
Raspberry extract. (<i>See Extract, Raspberry.</i>)	
Rice:	
Harris, S. H.....	190
Rye flour:	
Hastings Milling Co.....	131
Kern, J. B. A., & Sons.....	69
Salad oil. (<i>See Olive oil.</i>)	
Salt:	
Inland Crystal Salt Co.....	280
Powell-Sanders Co.....	280
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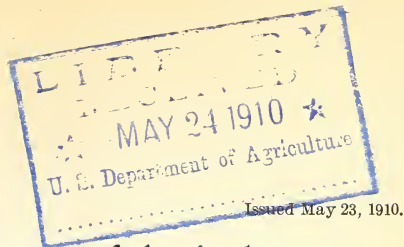
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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 301, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VANILLA FLAVOR.

On or about October 26, 1907, the St. Louis Coffee & Spice Mills, St. Louis, Mo., shipped from the State of Missouri to the State of Kansas a consignment of a product labeled "Nectar Choice Flavor of Vanilla Sugar Colored For Flavoring Ice Creams, Cakes and Pastry, etc. St. Louis Coffee and Spice Mills, Manufacturers, St. Louis, Mo." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the St. Louis Coffee and Spice Mills, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Eastern District of Missouri, charging the above shipment and alleging that the product was adulterated, in that it consisted of a liquid which did not contain any extract of vanilla, as described by Circular 19, Department of Agriculture, and by usages of trade and commerce, and was sold as and for vanilla flavor or vanilla extract, as these terms are understood in trade and commerce, but was in fact an imitation thereof and a substitute therefor, and was artificially colored to make it resemble vanilla extract of the standard established by the Secretary of Agriculture and the usages of trade and commerce and the science of food chemistry whereby its inferiority was concealed; and was misbranded, in that it was labeled "Nectar Flavor of Vanilla," which statement tended to deceive and mislead the purchaser, inasmuch as

the said liquid contained no extract of vanilla, as defined by Circular 19 of the Department of Agriculture and by the usages of trade and commerce, and was sold as and for vanilla flavor or vanilla extract as these terms are understood in trade and commerce, but was in fact an imitation thereof and a substitute therefor and had been artificially colored to make it resemble vanilla extract of the standard established by the Secretary of Agriculture and the usages of trade and commerce and the science of food chemistry whereby its inferiority was concealed.

On May 20, 1909, the defendant entered a plea of not guilty and demanded a jury trial, and, on May 21, 1909, after testimony had been submitted by both sides, the defendant filed a demurrer to the testimony, which was argued by counsel and submitted to the court. On May 22, 1909, the court rendered its opinion, sustaining the demurrer, in substance and form as follows:

DYER, J.

Since the adjournment of court on yesterday I have considered more fully the demurrer interposed by the defendant's counsel to the case as stated in the two counts of the information and the evidence offered by the Government in support thereof.

This is the first case arising under the Act of June 30, 1906, entitled "*An Act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes,*" that has been presented to this court for determination.

For a violation of this statute penalties are imposed and it is made the duty of the United States attorney, when the Secretary of Agriculture shall report to him any violation of the act to cause appropriate proceedings to be commenced and prosecuted without delay for the enforcement of the penalties, etc.

The Secretary reported this defendant to the District Attorney and as a result the information now under consideration was filed in this court.

The proceeding is for a violation of the statute that imposes penalties, and by its terms declares each violation a misdemeanor. The information therefore should be as certain and definite as if the offense were charged in an indictment.

Judging by the well recognized requirement of pleading in such cases, do the counts or either of them state clearly and with sufficient certainty any offense against the statute under which the proceeding was commenced, and is now prosecuted?

The importance of and the great good to the public that will follow the enforcement of this act, can hardly be measured, and the delay taken by the order of adjournment yesterday was for the purpose of enabling the court to determine (with proper regard to the contention of the District Attorney on the one side and of defendant's attorneys on the other) its decision.

The first count in the information charges in substance "that by circular No. 19 of the United States Department of Agriculture, dated *June 26th, 1906*, the Secretary established certain standards of purity for food products as authorized by an Act of Congress of March 3, 1903. That said order No. 19 provided that "Vanilla extract is a flavoring extract prepared from vanilla beans," etc. The count then states "that in trade and commerce and the science of food chemistry, the words 'vanilla extract' signify an extract prepared from the 'vanilla bean, etc., etc.' and in trade and commerce the words 'vanilla extract' are synonymous with the words 'vanilla flavor' when placed on bottles containing a liquid to be used for flavoring purposes."

The information (after making the foregoing recitals) charges that the defendant on the 26th of October, 1907, unlawfully and knowingly shipped by the Missouri-Pacific

Railroad from St. Louis, Mo., to Kansas City, for sale in interstate commerce, a certain bottle labeled "*Nectar Choice Flavor of Vanilla*, sugar colored, for flavoring ice cream, etc." That the contents of the bottle were adulterated in violation of the Act of June, 1906, in that said bottle contained a liquid which did not contain any extract of vanilla, as defined by the Circular No. 19, and by the usages of trade and commerce, and was in fact an imitation and substitute therefor, etc.

By the word "adulteration" as used in the act, it is understood to mean "to corrupt, * * * impure by an admixture of a foreign or a baser substance." How can it be successfully claimed that the liquid in the bottle offered in evidence did not contain extract of vanilla, that it was therefore adulterated within the meaning of the statute?

The circular No. 19 issued by the Secretary of Agriculture was issued long before the enactment of the statute under which this proceeding is had, and for that reason, if for no other, cannot be considered in determining the question of the guilt or innocence of the defendant in this case.

By Section 2 of the Act of June 30, 1906, it is made an offense to introduce into any State, etc., any food or drugs *adulterated or misbranded*.

The first count charges that the bottle sent from St. Louis to Kansas City contained "adulterated liquid extract or flavor." It also charges that the liquid did not contain any extract from the "vanilla bean," but did have a vanilla *flavor*.

The court is now asked to say that "*Vanilla Extract*" and "*Vanilla Flavor*" as known to the trade, is one and the same thing, and that in dealing with the defendant in this case "extract" and "flavor" are synonymous in meaning, and that therefore if the defendant shipped a liquid which had the flavor of vanilla it was guilty of *adulteration* of the *extract* of vanilla, within the meaning of the statute.

Neither the Secretary of Agriculture nor the public generally can change the meaning of the words "extract" and "flavor." Without reference to the dictionaries and the definition of the words contained therein, it is known that "extract" is one thing and "flavor" another.

The evidence in this case has failed to convince the court that even among dealers the words "extract" and "flavor" are considered synonymous terms.

The information charges that there was an adulteration of the article, but fails to state in what particular and how it was adulterated. It states a conclusion without making the necessary averments from which the conclusion could be fairly reached.

Section 7 of the Act provides that an article shall be deemed to be adulterated when "In case of food:

"First: If it be an imitation of or offered for sale under the distinctive name of another article.

"Second: If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein.

"Third: If in package form and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

"Fourth: If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular; provided, That any article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded, etc."

The information fails to charge that the article sold and delivered to the grocer in Kansas was mixed or packed in such a manner as to reduce or lower or injuriously

affect its quality or strength; nor does it charge that any substance was substituted for the article; nor does it charge that any valuable constituent was abstracted; nor does it charge that the article was colored in a manner whereby inferiority was concealed; nor does it charge that the article contained any added poisonous or other deleterious ingredient that would render it injurious to health.

It would seem that one or more of these things should be specifically charged in the information, and that the charge should be made with such particularity as to fairly inform the defendant of the act of violation complained of, and for which it is to answer.

The conclusion reached by the court is that the first count does not sufficiently charge an offense under the statute and that the evidence offered by the Government does not aid the defect.

The second count is similar in all respects to the first, as far as the recitals are concerned.

This count seeks to charge "misbranding" under Section 8 of the Act.

That section is as follows:

"Sec. 8. That the term "misbranded" as used herein shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced."

This count charges that the bottles were "misbranded" in violation of the Act of Congress of June 30, 1906, in this, to-wit:

"That said bottle contained a liquid in which there was no extract of vanilla as defined by the said Circular No. 19 of said Department of Agriculture, and by the usages of trade and commerce, and which was sold as and for vanilla flavor or vanilla extract, as these terms are understood in trade and commerce, but which was in fact an imitation thereof and a substitute therefor, and the contents of which bottle was artificially colored to make it resemble vanilla extract of the standard established by the Secretary of Agriculture, and the usages of trade and commerce, and the science of food chemistry whereby its inferiority was concealed, and was labeled as above set out to deceive and mislead the purchaser."

It will thus be seen that this count does not follow the words of the statute in charging the offense, but repeats the facts contained in the first count.

The charge in this, as in the first count, should be specific enough to fairly inform the defendant of the charge it is to meet. In my opinion, this count is insufficient.

There is nothing left for the court to do under this information but to direct the jury to return a verdict for the defendant, in this case, of not guilty.

NOTE.—See subsequent ruling of the same court in the case of *United States v. Edward Westen Tea and Spice Company*, Notice of Judgment No. 194.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of United States District Courts and United States Circuit Courts of Appeal adverse to the Government will not be accepted as final until acquiescence shall have been published.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., April 26, 1910.



F. & D. No. 574.
S. No. 211.

Issued May 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 302, FOOD AND DRUGS ACT.

MISBRANDING OF SYRUP.

(SHORT MEASURE.)

On or about December 27, 1908, Farrell & Co., Omaha, Nebr., shipped from the State of Nebraska to the Territory of New Mexico forty-six cases of syrup, each case being labeled "16 $\frac{1}{2}$ gal. Queen Bee Brand Syrup," and fifty-eight cases, each case being labeled "10 gals. Queen Bee Brand Syrup." Examination of samples of this product, made by the Bureau of Chemistry, United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of New Mexico. In due course libels were filed against the said forty-six cases and fifty-eight cases, respectively, charging misbranding, in that each of the forty-six cases were labeled "16 $\frac{1}{2}$ gal. Queen Bee Brand Syrup," whereas, in fact, they did not contain 16 $\frac{1}{2}$ gallon cans, but each of the cans purporting to contain $\frac{1}{2}$ gallon of syrup in fact contained 30 per cent less than $\frac{1}{2}$ gallon, and in that each of the fifty-eight cases were labeled "10 gals. Queen Bee Brand Syrup," whereas, in fact the said cases did not contain 10 1 gallon cans of syrup, as they purported to contain, but each of the said cans contained 28 per cent less than one gallon of syrup, and praying seizure, condemnation, and forfeiture.

Thereupon Gross, Kelly & Co. entered an appearance, filed an answer, and set up their claim to the goods, and on June 7, 1909, the cases came on for final hearing and the court rendered a decree of

condemnation and forfeiture in each case, and directed that the goods be released upon the defendant paying the costs and filing a bond in each case conditioned that the goods be not sold or otherwise disposed of contrary to the laws of the United States or of any State, Territory, or insular possession.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

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F. & D. No. 942.
S. No. 336.

Issued May 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 303, FOOD AND DRUGS ACT.

MISBRANDING OF METABOLIZED COD LIVER OIL COMPOUND.

On or about September 30, 1909, the H. W. St. Johns Company, of New York, N. Y., shipped from the State of New York to the District of Columbia thirty-six cases of metabolized cod liver oil compound. Analyses of samples of this product were made by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analysts and reports thereon that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture reported the facts to the United States Attorney for the District of Columbia. In due course a libel was filed against the said thirty-six cases of metabolized cod liver oil compound, charging misbranding within the meaning of the Act because they were labeled "Waterbury Chemical Co. Metabolized Cod Liver Oil Compound * * * ", and also bore the following statements on the labels of the retail packages and upon circulars accompanying the same: "Waterbury's Metabolized Cod Liver Oil Compound does contain Cod Liver Oil;" "Many of these (institutions) are using it exclusively as the one general tonic and tissue builder;" "Blue Wrapper indicates product without antiseptic;" which said statements were exaggerated, false, and misleading in this, that the said product contained no material part derived from cod liver oil due to metabolic changes, and further, in that the said product contained no cod liver oil, and further, in that the said product was not such that it could be a tissue builder and that it was not a tissue builder, and further, in that the said product contained in the bottles wrapped as aforesaid in the blue wrapper contained an article which was an antiseptic, to wit, salicylic acid.

In response to this libel the Waterbury Chemical Company, of Des Moines, Iowa, entered its appearance, set up a claim to the goods, and

filed an answer, together with certain interrogatories, on November 4, 1909, and subsequently, on November 24, 1909, filed an amended answer. To this answer and to the answer as amended the Government filed certain exceptions, as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA. HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, <i>Libellant</i> ,	}	District No. 849.
<i>vs.</i>		
THIRTY-SIX CASES, MORE OR LESS, OF "METABOLIZED COD LIVER Oil Compound."		

Now comes Daniel W. Baker, Attorney of the United States in and for the District of Columbia, and excepts to the answer of The Waterbury Chemical Company, a corporation, filed herein, and for grounds therefore shows:

1. The claimant herein has not made due answer to that portion of the libel in which it is alleged that said product contains no cod liver oil.

2. The claimant has not made due answer to that portion of the libel in which it is alleged that said product is not such that it could be a tissue builder, and that it is not a tissue builder.

3. The claimant has not made due answer to that portion of the libel in which it is alleged that certain bottles wrapped in blue wrapper contain a product which is antiseptic, that is to say, contain salicylic acid.

4. In that the claimant attempts to set up as matter of defense that there never had been any examination of samples of said articles, or analysis of said articles, as provided in Section 4 of the Act of Congress approved June 30, 1906, or as provided in regulations 3 and 4 of the Rules and Regulations made and prescribed pursuant to the provisions of Section 3 of said Act.

5. In that the claimant attempts to set up as matter of defense that he had no notice or opportunity to be heard as provided in Sections 4 and 5 of said Act of Congress approved June 30, 1906, or the rules and regulations made in pursuance to the provisions of said Act.

6. In that the claimant attempts to set up as matter of defense that no notice or copy of the results of any analysis have been given to the Attorney of the United States as provided in Section 4 of said Act approved June 30, 1906, and that this proceeding was taken by the said Attorney of the United States on his own motion and not by direction of the Secretary of Agriculture.

7. In that the claimant attempts to allege as matter of defense that the evidence purporting to show the alleged violation of the law had never been submitted to the Secretary of Agriculture, as provided in Sections 4 and 5 of the said Act of Congress approved June 30, 1906, and the rules and regulations made under said Act.

8. In that the claimant in interrogatories numbers 1, 2, 3, and 4 attached to the answer, inquires of matters which are immaterial and irrelevant in this proceeding, and relate to section 4 of the Act of Congress approved June 30, 1906, which is not applicable to a seizure of goods.

9. In that the claimant in interrogatories numbers 5, 6, and 7, propounds questions which relate exclusively to the evidence which the United States has collected and expects to offer at the hearing of this cause, and are not such matters as the claimant is entitled to ascertain in advance of the hearing.

DANIEL W. BAKER,
Attorney of the United States in and for the District of Columbia.

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA. HOLDING A DISTRICT COURT.

UNITED STATES	}	District No. 849.
<i>vs.</i>		
36 CASES OF METABOLIZED COD LIVER OIL COMPOUND.		

EXCEPTIONS TO AMENDED ANSWER.

Now comes Daniel W. Baker, Attorney of the United States in and for the District of Columbia, and excepts to the answer and the amendment to the answer of the Waterbury Chemical Company, a corporation, filed herein and for grounds thereof shows in addition to those grounds set forth in the exceptions heretofore filed:

A. In that the Waterbury Chemical Company in paragraph sixth of its amendment to the answer sets up no matter of fact or law sufficient to defeat the purposes of this law or the libel filed herein.

B. In that the answer and the amendment to the answer are defective in law and in substance upon other grounds.

DANIEL W. BAKER,
Attorney of the United States in and for the District of Columbia.

On January 7, 1910, the case came on for argument on the exceptions to the answer, as amended, and the court rendered its decision, in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, <i>Libellant,</i>	}	District No. 849.
<i>vs.</i>		
36 CASES, MORE OR LESS, OF METABOLIZED COD LIVER OIL Compound, <i>Libellee.</i>		

WASHINGTON, D. C.,
January 7, 1910, 10 o'clock, a. m.

This cause having been heard upon libellant's exceptions to libellee's answer, the questions thereby raised are now disposed of as follows:

The first exception is overruled on the ground that the answer does expressly deny that the product contains no material part derived from cod liver oil due to metabolic changes, and therefore raises an issue of fact to be submitted to the jury.

The second exception is overruled upon the ground that the answer does expressly deny the allegation of the libellee which states that the product is not a tissue builder, and therefore presents an issue to be submitted to the jury.

The third exception is overruled because it is considered that the answer raises the question of fact whether the product in blue wrapper does contain any antiseptic within the fair meaning of the term as used upon the blue wrapper.

The fourth, fifth, sixth, seventh, eighth and ninth exceptions are sustained upon the ground that the matters in the answer therein excepted to are either immaterial and insufficient in law, or relate merely to matters of evidence which the defendant is not entitled to require from the libellant at this stage of the case.

The libellant's exceptions to the amended answer are sustained on the ground that the portions of the answer therein excepted to are insufficient in law.

WENDELL P. STAFFORD,
Justice.

Exception by Libellee to that part of the order sustaining exceptions of Libellant.
Notice of appeal by Libellee.

On March 25, 1910, the case came on for hearing on libel and answer, the defendant having waived a jury, and, after hearing the testimony and argument of counsel, the court rendered its decree of condemnation and forfeiture, and directed that the goods be released to the claimant on payment of costs and the filing of a bond to be approved by the court, conditioned that the product should not be sold or otherwise disposed of contrary to the laws of the United States.

On April 15, 1910, the defendant entered an appeal to the Court of Appeals and filed a supersedeas bond.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

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United States Department of Agriculture,

U. S. Department of Agriculture
OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 304, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

On or about January 6, 1910, Prussing Bros., Chicago, Ill. shipped from the State of Illinois into the State of Indiana seventy barrels of a product labeled "Prussing Bros. Pure Cider Vinegar 40 Grain, Chicago, Ill., Mill Montague, Mich." Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and the report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Indiana. In due course a libel was filed against 45 barrels, the remaining portion of said shipment, charging adulteration of the product within the meaning of the act, in that there had been substituted in part for it water and a foreign material, high in reducing sugars, and a foreign ash material, and that the product was not of the standard acid strength, and misbranding in that it was labeled "Pure Cider Vinegar," which statement was false and misleading, because the product was not pure cider vinegar but was below the standard acid strength, and contained added water, a foreign material high in reducing sugars, and a foreign ash material.

Thereupon Prussing Bros. entered an appearance, and set up its claim to the product and filed an answer, admitting the allegations of the libel, and on March 21, 1910, the court entered its decree of condemnation and forfeiture and directed that the goods be released upon payment of costs and filing of a bond to be approved by the court, upon condition that said goods should not be disposed of contrary to the provisions of the Food and Drugs Act, June 30, 1906.

This notice is given pursuant to section 4 of the Food and Drugs Act, June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*





Issued May 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 305, FOOD AND DRUGS ACT.

ADULTERATION OF DESICCATED EGG.

On or about July 31, and August 7, 1909, the Columbia Desiccated Egg Company., of Chicago, Ill., shipped from the State of Illinois into the State of Maryland two consignments of a desiccated egg product. Analysis of samples of these shipments made in the Bureau of Chemistry, United States Department of Agriculture, showed the product to be adulterated within the meaning of the Food and Drugs Act of June 30, 1906.

As it appeared from the findings of the analyst and the reports made that the shipments were liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the District of Maryland. In due course a libel was filed against three drums of desiccated egg product, being all that remained of the above shipments, charging adulteration within the meaning of the act, because it consisted of filthy, decomposed, and putrid substance.

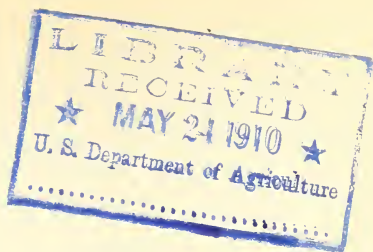
On October 27, 1909, the said Columbia Desiccated Egg Co. filed an answer and set up claim to the product. Subsequently on March 21, 1910, the Columbia Desiccated Egg Co. withdrew its claim and filed its consent to the passage of a decree of condemnation and forfeiture, and on March 22, 1910, the court rendered its decree of condemnation and forfeiture, and directed that the product should be destroyed.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*





F. & D. No. 1337.
S. No. 485.

Issued May 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 306, FOOD AND DRUGS ACT.

MISBRANDING OF FISH.

On or about February 1, 1910, the W. J. Orr Fish Company, of Bayport, Mich., shipped from the state of Michigan into the state of Ohio, 595 packages of fish, in three consignments. Analysis of samples of this product made in the Bureau of Chemistry, United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Southern District of Ohio. In due course libels were filed against one hundred and twenty, one hundred and eighty, and two hundred and ninety-five packages of fish, respectively, charging misbranding of the product within the meaning of the act, in that it was labeled "W. J. Orr Fish Co., Orr's Choice Family White Fish, Bayport, Mich." which form of label was false, misleading and deceptive in that they reported the product to be "white fish" whereas in truth it was not "white fish," but a certain other fish known as "Lake herring."

To these libels answers were filed, respectively, by the W. L. Adamson Co., the J. K. McIntyre Co., and the Charles C. Higgins Co., of Dayton, Ohio, admitting the truth of the facts charged, and setting up claims to the goods covered by the respective libels. On March 25, 1910, the court issued an order in each case directing that the goods covered by the respective libels be released to the above-named claimants upon payment of the costs and filing of bonds to be

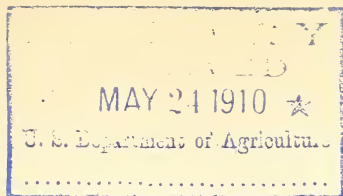
approved by the court, conditioned that the said product should not be sold in violation of the Food and Drugs Act of June 30, 1906, or the law of any State or Territory or insular possession.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., April 26, 1910.





F. & D. No. 56-C.

Issued May 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 307, FOOD AND DRUGS ACT.

ADULTERATION OF CREAM.

On or about February 26, 1910, John Irvine, of Culpeper, Va., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, health officer of the District of Columbia, acting by authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the cream was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said John Irvine was afforded an opportunity for hearing. As it appeared after hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

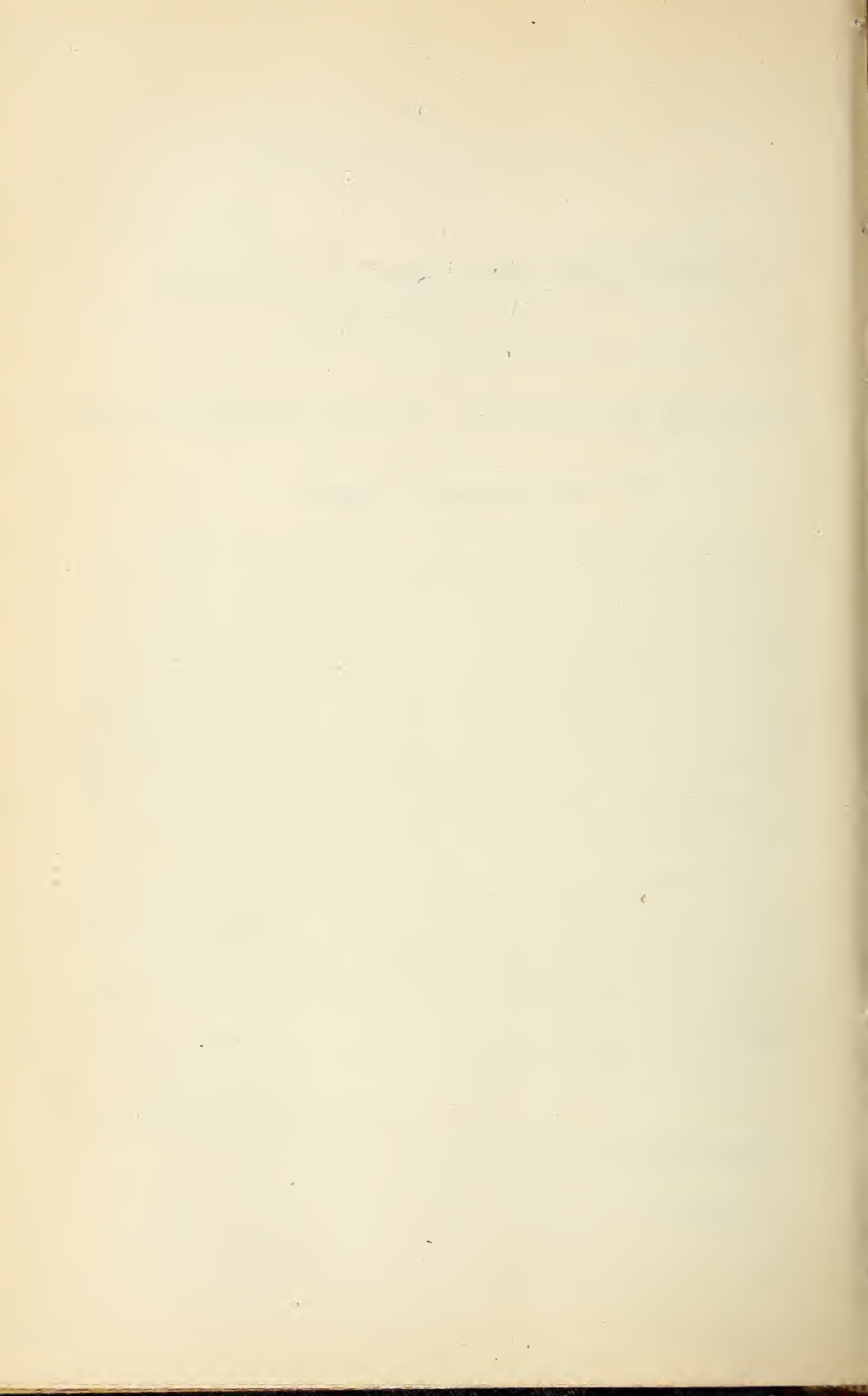
In due course a criminal information against the said John Irvine was filed in the Police Court of the District of Columbia, charging that the said cream was adulterated in that a valuable constituent, to-wit, butter fat, had been abstracted therefrom. On March 21, 1910, the defendant entered a plea of guilty and the court imposed upon him a fine of \$10.

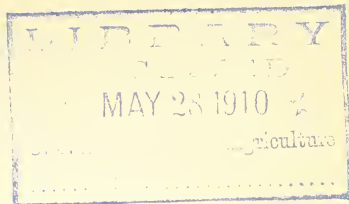
This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

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Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 308, FOOD AND DRUGS ACT.

ADULTERATION OF CREAM.

On or about March 9, 1910, Samuel C. Harley, of Manassas, Va., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, health officer of the District of Columbia, acting by virtue of the authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and the report made indicated that the cream was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, said Samuel C. Harley was afforded an opportunity for hearing, and as it appeared after hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States attorney for the District of Columbia.

In due course a criminal information against the said Samuel C. Harley was filed in the Police Court of the District of Columbia, charging that the said cream was adulterated in that a valuable constituent, to-wit, milk fat, had been abstracted. On March 25, 1910, the defendant entered a plea of guilty and the court imposed upon him a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 309, FOOD AND DRUGS ACT.

MISBRANDING OF "COKE EXTRACT."

(SOFT DRINK CONTAINING COCAIN.)

On or about January 6, 1909, J. A. Scott, of Atlanta, Ga., doing business under the name and style of the Kumfort Company, shipped from the State of Georgia into the State of Tennessee a consignment of a product known as "Coke Extract," and labeled "Coke. Bottled by Kumfort Company, Atlanta, Ga. Guaranteed under State and National food laws." A sample from this shipment was procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Kumfort Company, and the dealer from whom the sample was purchased, opportunities for hearings. As it appeared after hearings held that the shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence on which to base a prosecution.

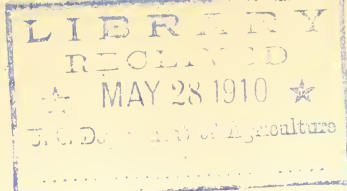
In due course a criminal information was filed against the said J. A. Scott in the District Court of the United States for the Northern District of Georgia charging the above shipment and alleging that the product was misbranded, in that it contained cocain, and did not bear a statement on the label showing the quantity or proportion of cocain contained therein.

On October 15, 1909, said defendant entered a plea of guilty and the court imposed upon him a fine of \$15.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*



Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 310, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF "KOLA-ADE."

SOFT DRINK CONTAINING COCAIN.

On or about March 27, 1909, the Kola-Ade Company, of Atlanta, Ga., shipped from the State of Georgia to the State of Tennessee a consignment of a product known as "Kola-Ade." A sample from this shipment was procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Kola-Ade Company, and the dealer from whom the sample was purchased, opportunities for hearings. As it appeared after hearings held that the above shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence on which to base a prosecution.

In due course a criminal information was filed against the Kola-Ade Company in the Circuit Court of the United States for the Northern District of Georgia, charging the above shipment and alleging that the product was adulterated, in that it contained an added deleterious ingredient, namely, cocain and coca leaf alkaloids, and was misbranded in that it contained cocain and failed to bear a statement on the label of the quantity or proportion of the cocain contained therein.

On March 19, 1910, the defendant entered a plea of guilty and the court imposed a fine of \$25.

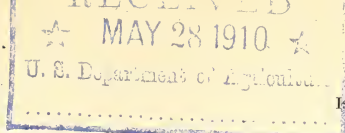
This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

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Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 311, FOOD AND DRUGS ACT.

MISBRANDING OF VINEGAR.

On or about May 15, 1909, and June 23, 1909, Board, Armstrong & Co., of Alexandria, Va., shipped from the State of Virginia to the State of Georgia consignments of vinegar consisting of 28 packages and 26 packages, respectively. Analysis of samples of these shipments made in the Bureau of Chemistry, United States Department of Agriculture, showed the product to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipments were liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Northern District of Georgia.

In due course a libel was filed against the said 54 packages of vinegar, charging misbranding of the product, in that the contents are stated in terms of measure on the end of each package in figures indicating the number of gallons which they purport to contain and said packages do not contain the number of gallons of vinegar which they purport to contain, as stated by the figures thereon. Thereupon Board, Armstrong & Co. entered an appearance and set up claim to the goods.

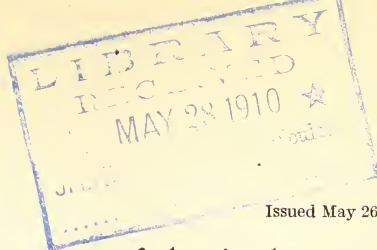
On September 20, 1909, the case came on for hearing and the court rendered its decree of condemnation and forfeiture and directed that the goods be released to the claimant upon payment of the costs and filing of a bond conditioned that the said goods shall not be sold or otherwise disposed of in violation of the laws of the United States or the laws of any State, Territory, District, or insular possession of the United States.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

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Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 312, FOOD AND DRUGS ACT.

ADULTERATION OF MILK.

On or about September 10, 1909, George L. Hilderbrand, of Dickerson, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting by virtue of the authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said George L. Hilderbrand was afforded an opportunity for hearing, and as it appeared after hearing held that this sale was in violation of the said act, the said health officer reported the facts to the United States attorney for the District of Columbia.

In due course a criminal information against the said George L. Hilderbrand was filed in the Police Court of the District of Columbia, charging that the said milk was adulterated in that a substance, to-wit, water, had been mixed and packed with it so as to reduce and lower its quality. On March 25, 1910, defendant entered a plea of guilty and the court imposed upon him a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 313, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMON EXTRACT.

On or about June 6, 1907, the Atwood & Steele Company, Chicago, Ill., shipped from the State of Illinois into the State of Idaho, a consignment of a food product labeled: "Tropical Extract Lemon. One per Cent. Atwood & Steele Company, Chicago." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Atwood & Steele Company and the dealer from whom the samples were purchased opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence on which to base a prosecution. In due course a criminal information was filed in the District Court of the United States for the Northern District of Illinois, charging the above shipment, and alleging that the product was adulterated within the meaning of the act, because a solution containing little or no lemon oil had been substituted in part for the genuine food article, and was misbranded in that it was labeled "Tropical Extract Lemon," which statement was false and misleading and tended to deceive and mislead the purchaser into the belief that the product was a lemon extract of standard strength and quality, whereas in fact it was a solution containing little or no lemon oil.

On December 31, 1909, the defendant entered a plea of nolo contendere and the court imposed upon it a fine of \$11.30.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*



MAY 28 1910
U. S. Department of Agriculture

Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 314, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF A FEED—"GLOBE FLOUR MIDDINGS."

On or about February 23, 1909, the Globe Elevator Company, of Buffalo, N. Y., shipped from the State of New York to the State of Pennsylvania a consignment of a food product labeled: "100 pounds Globe Flour Middlings, Protein 11 to 13 per cent., fat 3 to 4 per cent., crude fibre 13 to 15 per cent. Globe Elevator Company, Buffalo, N. Y." A sample from this shipment was procured and analyzed by the Bureau of Chemistry of the United States Department of Agriculture, and as it appeared from the findings of the analyst and report thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Globe Elevator Company and the dealer from whom the sample was purchased opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution. In due course a criminal information was filed against the said Globe Elevator Company in the District Court of the United States for the Western District of New York, charging the above shipment, and alleging that the product was adulterated in that it contained approximately 10.7 per cent ground corn cob, which corn cob had been substituted in part for the genuine article, and was misbranded in that the label stated "Protein 11 to 13 per cent., fat 3 to 4 per cent., crude fibre 13 to 15 per cent.," which statements were false and misleading, in that they purported to state the ingredients of the product, whereas in fact it also contained 10.7 per cent ground corn cob.

On March 8, 1910, defendant entered a plea of guilty and the court imposed a fine of \$50.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 315, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF FEED—"INTERNATIONAL GLUTEN."

About December 5, 1908, the Globe Elevator Company, Buffalo, N. Y., shipped from the State of New York into the State of Pennsylvania a consignment of a food product labeled "International Gluten, crude protein 20 to 23 per cent., crude fat 4 to 6 per cent., crude fibre 7 to 10 per cent. Globe Elevator Company, Buffalo, N. Y." A sample from this shipment was procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report thereon that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Globe Elevator Company, and the dealer, from whom the sample was purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution. In due course, a criminal information was filed against the said Globe Elevator Company, in the District Court of the United States for the Western District of New York, charging the above shipment, and alleging that the product was adulterated in that it contained ground corn cob 5 per cent, which substance had been substituted in part for the genuine food article, and was misbranded in that the label bore the statements "crude protein 20 to 23 per cent., crude fat 4 to 6 per cent., crude fibre 7 to 10 per cent.", which statements were false and misleading, in that they purported to state the ingredients of the product, whereas in fact it contained moisture 7.23 per cent, ether extract 3.25 per cent, protein 20.44 per cent, crude fiber 11.33.

On March 8, 1910, defendant entered a plea of guilty, and the court imposed upon it a fine of \$50.

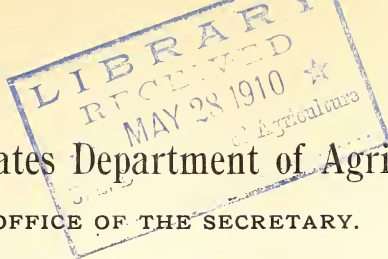
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JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*







Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 316, FOOD AND DRUGS ACT.

MISBRANDING OF RAISINS.

On or about March 18, 1909, R. J. Paden, of Sanger, Cal., shipped from the State of California to the State of Texas, 700 cases of raisins. Analysis of samples of this product made in the Bureau of Chemistry of the United States Department of Agriculture, showed it to be misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act the Secretary of Agriculture reported the facts to the United States attorney for the Northern District of Texas. In due course a libel was filed against 300 cases of raisins, all that remained of the original 700 cases, charging misbranding of the product within the meaning of the act, in that they were labeled "Choice California Raisins, Smith Packing Company," which statements were false, misleading and deceptive, inasmuch as the said raisins were not choice California raisins, but the same were in fact composed in part of a filthy and decomposed vegetable substance. On March 25, 1910, the case came on for final hearing, there being no claimant of record, and the court rendered its decree of condemnation and forfeiture, and ordered that the said goods be destroyed.

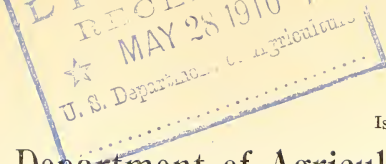
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JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*







Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 317, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF BUCKWHEAT FLOUR.

On or about March 11, 1908, the King Cereal and Manufacturing Company, of Chicago, Ill., shipped from the State of Illinois to the State of Ohio, a consignment of a food product labeled "King's quick-rising Buckwheat Flour." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report made that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the King Cereal and Manufacturing Company, and the dealer from whom the samples were purchased opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence on which to base a prosecution. In due course, a criminal information was filed against the King Cereal and Manufacturing Company in the District Court of the United States for the Northern District of Illinois, charging the above shipment, and alleging that the product was adulterated in that there had been mixed and packed with it, in a manner to reduce, lower, and injuriously affect its quality and strength, a wheat product, and that said wheat product had been substituted in part for the genuine food article, and was misbranded in that it was labeled "Quick-Rising Buckwheat Flour," which statement was false and misleading in that it was not a quick rising buckwheat flour, but a compound of buckwheat flour and a wheat flour. On December 31, 1909, defendant entered a plea of guilty and the court imposed a fine of \$10.

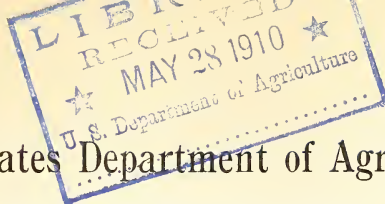
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JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*







Issued May 26, 1910

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 318, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF CIDER VINEGAR.

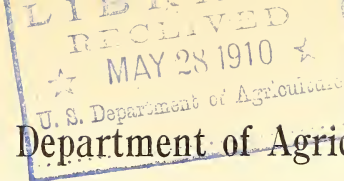
Between January 1, 1908 and August 24, 1908, Barrett & Barrett, a corporation, of Chicago, Ill., sold and delivered to Franklin McVeagh & Company, another corporation of Chicago, Ill., a quantity of a product labeled "Charm Brand 40 Grain Cider Vinegar, Distributed by Franklin McVeagh & Company, Chicago, Illinois," and at the time of making said sale furnished said Franklin McVeagh & Company a written guaranty, signed by Barrett & Barrett, through its secretary, W. J. Windsor, to the effect that the said vinegar was not misbranded within the meaning of the Food and Drugs Act of June 30, 1906. On August 24, 1908, the said Franklin McVeagh & Company shipped the said vinegar from the State of Illinois to the State of Oklahoma. A sample of this shipment was procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as it appeared from the findings of the analyst and report made that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded opportunities for hearings to the party from whom the sample was procured, to the shipper, and to Barrett & Barrett, the guarantor of the said product. As it appeared after hearings held that there had been a violation of the act on the part of the above-named guarantor, the Secretary of Agriculture reported the facts to the Attorney-General, with a statement of the evidence on which to base a prosecution. In due course, a criminal information was filed in the District Court of the United States for the Northern District of Illinois against the said Barrett & Barrett, alleging that the product was adulterated in that there had been mixed and packed with it, so as to reduce, lower and injuriously affect its quality or strength, a foreign material high in reducing sugars and dilute acetic acid, and that the product had been artificially colored in a manner to conceal its inferiority, and was misbranded in that it was labeled "Charm Brand 40 Grain Cider Vinegar," which statement was false, misleading, and deceptive, and tended to deceive and mislead the purchasers

into believing that the product was a cider vinegar whereas in fact it was not a cider vinegar, but a mixture of a foreign material high in reducing sugars, dilute acetic acid, and cider vinegar, and was artificially colored in imitation of cider vinegar, and charging that the said defendants at the time of making the sale and delivery of the said product to the purchasers thereof knew that the article was adulterated and misbranded, and that the article was intended to be sold in interstate traffic, and was likely to be sold in interstate traffic. That by reason of the guaranty given by the said defendant it was amenable to the prosecution, fines, and other penalties which would attach, because of the said unlawful interstate shipment. On December 31, 1909, the defendant entered a plea of guilty, and on January 31, 1910, the court imposed a fine of \$25.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*



Issued May 26, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 319, FOOD AND DRUGS ACT.

MISBRANDING OF HAIR TONIC.

On or about January 28, 1909, J. L. Lombardo, Buffalo, N. Y., shipped from the State of New York to the State of Michigan a consignment of a drug labeled "Lombardo's La Tosca Hair Tonic." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded J. L. Lombardo, and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed against the said J. L. Lombardo in the District Court of the United States for the Western District of New York, charging the above shipment and alleging that the product was misbranded in that it was labeled: "Lombardo's La Tosca Hair Tonic. La Tosca Hair Tonic will eliminate any Scalp Disease, Dandruff, Itch, Headache and the falling of hair. It is advisable, while using La Tosca to shampoo your scalp at least once a week. This contains pure Columbian Spirit;" which statements were false, misleading, and deceptive, in that the product did not possess the property of eliminating any scalp disease, dandruff, itch, headache, and the falling of hair, and was further misbranded, in that it contained 98.5 per cent methyl alcohol, and failed to bear a statement of the quantity or proportion of the alcohol contained therein on the label.

On March 8, 1910, the defendant entered a plea of guilty and the court imposed a fine of \$25.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 320, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VANILLA EXTRACT.

On or about March 20, 1909, the Puhl Manufacturing Company, of Chicago, Ill., shipped from the State of Illinois to the State of Wisconsin a consignment of a food product labeled "Puhl's Pure Mexican Vanilla Extract for Flavoring Custards, Ices, Ice Cream, Cakes, etc., etc. Puhl Mfg. Co., Chicago, Ill." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the Puhl Mfg. Co., and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed against the Puhl Mfg. Co. in the District Court of the United States for the Northern District of Illinois, charging the above shipment and alleging that the product was adulterated, in that there had been substituted in whole or in part for the genuine food article a dilute vanilla extract, and that it had been artificially colored in a manner to conceal its inferiority; and was misbranded, in that it was labeled "Pure Mexican Vanilla Extract," which statement was false, misleading, and deceptive, in that it indicated that the product was a pure extract of the vanilla bean, whereas, in fact, it was not a pure extract of vanilla, but a dilute extract, artificially colored in a manner to conceal its inferiority.

On December 31, 1909, the defendant entered a plea of guilty and the court imposed upon it a fine of \$10.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 321, FOOD AND DRUGS ACT.

MISBRANDING OF CANNED PEAS.

(SHORT WEIGHT.)

On or about July 31, 1907, the P. Hohenadel, Jr., Company, of Rochelle, Ill., shipped from the State of Illinois to the State of Indiana a consignment of a food product, each case being labeled "Two Dozen two-pound cans Choice Standard Peas, Packed by the P. Hohenadel, Jr., Co., Rochelle, Illinois." Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report made indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the P. Hohenadel, Jr., Co., and the dealer from whom the samples were purchased, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed against the said P. Hohenadel, Jr., Co., in the District Court of the United States for the Northern District of Illinois, charging the above shipment and alleging that the product was misbranded, in that the cases were labeled "Two Dozen two-pound cans Choice Standard Peas," which statement was false and misleading, in that each of the said cans of peas contained in the cases composing the shipment did not in fact weigh two pounds, but did in fact weigh less than two pounds.

On November 9, 1909, the defendant entered a plea of guilty and the court imposed upon it a fine of one cent.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 322, FOOD AND DRUGS ACT.

MISBRANDING OF STOCK FOOD—"CORN ALFALFA HORSE FEED."

On or about February 16, 1909, Guthrie & Company, of Superior, Nebr., shipped and delivered for shipment in interstate commerce from Superior, Nebr., to Macon, Ga., 100 pounds of stock food, which was labeled and branded "Corn Alfalfa Horse Feed Fat 4.0%, Fiber 11.0%, Protein 13.0%, Carbohydrates 50.0%. Corn Alfalfa Products Co., Superior, Neb." Samples from the above shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and as the findings of the analyst and report made indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the said Guthrie & Company, and the party from whom the samples were procured, were afforded opportunities for hearings. As it appeared after hearings held that the above shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution. In due course a criminal information was filed against the said Guthrie & Company, in the District Court of the United States for the District of Nebraska, charging the above shipment and alleging that the product shipped as aforesaid was misbranded, because it bore a label and statements regarding the ingredients and substances contained therein which were false and misleading in this, that said article of food was represented to contain 4 per cent fat, 11 per cent fiber, and 13 per cent protein, whereas it did in fact contain 3.72 per cent ether extract (fat), 10.88 per cent protein, and 13.85 per cent crude fiber.

On March 15, 1910, the defendant pleaded guilty to the information and the court imposed upon it a fine of \$50.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 323, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"REMEDY FOR HAY FEVER AND CATARRH."

On or about September 4 and September 8, 1909, E. H. Ryno, of Wayland, Mich., shipped from the State of Michigan to the State of Illinois consignments of a drug product labeled "Remedy for Hay Fever and Catarrh of the Nose, Prescribed by E. H. Ryno, Hay Fever Laboratory." Samples of this shipment were procured and analyzed in the Bureau of Chemistry, United States Department of Agriculture and as the findings of the analyst and reports made indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded E. H. Ryno an opportunity to be heard. As it appeared after the hearing held that the said shipments were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence on which to base a prosecution. In due course the United States attorney for the Western District of Michigan presented the facts and evidence to the grand jury, who returned an indictment against the said E. H. Ryno, charging the aforesaid shipments, and alleging that the product was misbranded in each case, in that it contained 99.95 per cent cocaine hydrochloride, and that the label on each of said shipments did not disclose the quantity or proportion of cocaine hydrochloride contained therein. On March 5, 1910, defendant entered a plea of guilty and the court imposed upon him a fine of \$100.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *April 26, 1910.*

